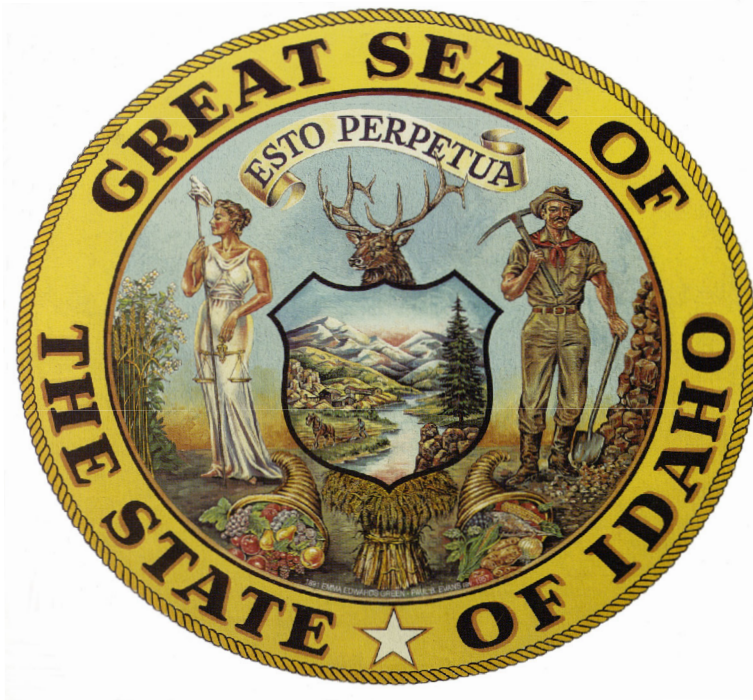


IDAHO ADMINISTRATIVE BULLETIN

October 5, 2022 – Vol. 22-10

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator



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IDAHO ADMINISTRATIVE BULLETIN

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PREFACE

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Division of Financial Management, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking - Proposed Rule” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **19-1** refers to the first Bulletin issued in calendar year **2019**; Bulletin **20-1** refers to the first Bulletin issued in calendar year **2020**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **19-1** refers to January 2019; Volume No. **20-2** refers to February 2020; and so forth. Example: The Bulletin published in January 2019 is cited as Volume **19-1**. The December 2019 Bulletin is cited as Volume **19-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon Bulletin publication. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code until approved as final.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

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

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a “Notice of Intent to Promulgate – Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a “Notice of Rulemaking – Proposed Rule” in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) conferring a benefit.

If a rulemaking meets one or more of these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

4. PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule. When a pending rule is published in the Bulletin, the agency is required to include certain information in the “Notice of Rulemaking – Pending Rule.” This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule.

5. FINAL RULEMAKING

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

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

IDAPA 38.05.01.200.02.c.ii.

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

“**38.**” refers to the Idaho Department of Administration

“**05.**” refers to Title **05**, which is the Department of Administration’s Division of Purchasing

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

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

“**02.**” refers to Subsection 200.02.

“**c.**” refers to Subsection 200.02.c.

“**ii.**” refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. Each rulemaking that is filed with the Coordinator is assigned a “DOCKET NUMBER.” The docket number is a series of numbers separated by a hyphen “-”, (**38-0501-1401**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1901”

“**38-**” denotes the agency’s **IDAPA** number; in this case the Department of Administration.

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

“**1901**” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2019**. A subsequent rulemaking on this same rule chapter in calendar year 2019 would be designated as “**1902**”. The docket number in this scenario would be 38-0501-**1902**.

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

(BREAK IN CONTINUITY OF SECTIONS)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2022

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
22-1	January 2022	November 15, 2022	*November 29, 2021	January 5, 2022	January 26, 2022
22-2	February 2022	December 23, 2022	January 7, 2022	February 2, 2022	February 23, 2022
22-3	March 2022	January 28, 2022	February 11, 2022	March 2, 2022	March 23, 2022
22-4	April 2022	February 25, 2022	March 11, 2022	April 6, 2022	April 27, 2022
22-5	May 2022	March 25, 2022	April 8, 2022	May 4, 2022	May 25, 2022
22-6	June 2022	April 22, 2022	May 6, 2022	June 1, 2022	June 22, 2022
22-7	July 2022	May 20, 2022	June 3, 2022	July 6, 2022	July 27, 2022
22-8	August 2022	June 24, 2022	July 8, 2022	August 3, 2022	August 24, 2022
22-9	September 2022	July 22, 2022	August 5, 2022	September 7, 2022	September 28, 2022
22-10	October 2022	August 19, 2022	**September 2, 2022	October 5, 2022	October 26, 2022
22-11	November 2022	September 23, 2022	October 7, 2022	November 2, 2022	November 23, 2022
22-12	December 2022	October 28, 2022	November 10, 2022	December 7, 2022	December 28, 2022

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2023

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
23-1	January 2023	November 14, 2022	*November 28, 2022	January 4, 2023	January 25, 2023
23-2	February 2023	December 23, 2022	January 6, 2023	February 1, 2023	February 22, 2023
23-3	March 2023	January 27, 2023	February 10, 2023	March 1, 2023	March 22, 2023
23-4	April 2023	February 24, 2023	March 10, 2023	April 5, 2023	April 26, 2023
23-5	May 2023	March 24, 2023	April 7, 2023	May 3, 2023	May 24, 2023
23-6	June 2023	April 21, 2023	May 5, 2023	June 7, 2023	June 28, 2023
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23-8	August 2023	June 23, 2023	July 7, 2023	August 2, 2023	August 23, 2023
23-9	September 2023	July 21, 2023	August 4, 2023	September 6, 2023	September 27, 2023
23-10	October 2023	August 18, 2023	**September 1, 2023	October 4, 2023	October 25, 2023
23-11	November 2023	September 22, 2023	October 6, 2023	November 1, 2023	November 22, 2023
23-12	December 2023	October 27, 2023	November 9, 2023	December 6, 2023	December 27, 2023

***Last day to submit a proposed rulemaking before moratorium begins AND last day to submit a pending rule to be reviewed by upcoming legislature.**

****Last day to submit a proposed rule to remain on course for rulemaking to be completed and submitted for review by upcoming legislature.**

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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2022-04

**ASSIGNMENTS OF ALL-HAZARD PREVENTION, PROTECTION, MITIGATION,
RESPONSE AND RECOVERY FUNCTIONS TO STATE AGENCIES IN SUPPORT OF
LOCAL AND STATE GOVERNMENT RELATING TO EMERGENCIES AND DISASTERS**

WHEREAS, widespread property damage, personal injury and loss of life from manmade and natural disasters is an ever-present possibility in Idaho; and

WHEREAS, Chapter 10, Title 46, Idaho Code requires the protection of lives and property in any type of natural or man-made disaster emergency or threat that might conceivably confront the State; and

WHEREAS, local government is the principal provider of emergency services in Idaho; and

WHEREAS, the role of state government is to support and enhance local community emergency management and homeland security efforts including focusing state agency activities on supporting regional and community needs throughout Idaho; and

WHEREAS, the Legislature has directed the development of such state disaster prevention, protection, mitigation, response and recovery plans; and

WHEREAS, effective state protection, prevention, mitigation, response and recovery planning requires proactively identifying functions that would be performed during such emergencies and the assignment of responsibility for developing the capability to implement these plans;

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State do hereby assign emergency prevention, protection, mitigation, response and recovery functions to all state agencies.

I. GENERAL ASSIGNMENTS

Each department and agency shall ensure their organization can continue to provide critical services during an event that impacts the ability of the government to fully function. In addition, each department and agency, in order to ensure a coordinated disaster response in alignment with the Idaho Emergency Operation Plan (IDEOP), shall:

A. Prepare for and respond to emergencies or disasters, as defined in Idaho Code Section 46-1002, within the State of Idaho in a manner consistent with the National Incident Management System (NIMS). Agency employees expected to respond to emergencies or disasters within Idaho will have NIMS training commensurate with their expected roles in response to such emergencies or disasters.

B. Designate a NIMS compliant agency emergency coordinator to train, exercise, and participate in the State Emergency Management Program to facilitate emergency support and logistics in response to emergencies and disasters. Larger departments will, by necessity, need to appoint subdivision emergency coordinators to report to the agency emergency coordinator. Each year, provide or validate the names and contact information of agency emergency coordinators to the Idaho Office of Emergency Management.

C. Develop and maintain an agency specific emergency operations plans (EOP) to carry out the agency's response and recovery support functions consistent with the National Response Framework and the National Recovery Framework. Agency EOP's will be submitted on each even numbered year to the Idaho Office of Emergency Management. Agency plans will assign emergency management duties to

all applicable subdivisions and personnel within the agency. Agency plans will outline how the agency will support the State Emergency Response Team (SERT), the Idaho Response Center (IRC), and agency specific Emergency Support Functions (ESF) as required by the Idaho Emergency Operation Plan and the National Preparedness System. Such agency support includes:

- 1. Contributing to the agency's assigned ESF role as outlined in the state EOP whether as a coordinating agency, a primary agency, or a supporting agency. Depending on the agency's role in the EOP, this may include functioning as a liaison for all organizations and agencies operating within a specific ESF.*
- 2. Supporting the State's emergency planning preparedness efforts by actively participating in and contributing to the biennial update of the EOP.*
- 3. Supporting the State Emergency Response Team (SERT) and Idaho Response Center (IRC) processes and standard operating procedures. Providing information for situation reports, incident action plans, resource status, financial status, geospatial data, and organization/staffing/contact information to the SERT and its situational awareness platforms;*
- 4. Providing ESF personnel and resources commensurate with SERT assigned roles and responsibilities; and*
- 5. Providing resources and capabilities when mission-assigned by the SERT. This may include personnel, direct agency assistance or subject matter expertise in response to a request for assistance.*

D. Notify the Idaho Office of Emergency Management of any impending emergency or disaster conditions that may warrant the need for support from the State Emergency Response Team.

E. Develop and maintain a Continuity of Operations Plan (COOP) to (a) address how the agency will continue to perform essential functions in the event of compromised facilities or leadership, and (b) return the agency to normal operations after the conclusion of the compromising event. Agency COOP plans will be submitted on each odd numbered year to the Idaho Office of Emergency Management.

F. Notify the Idaho Office of Emergency Management of any incident, emergency or disaster that requires activation of their COOP plan or otherwise impacts the ability of government to provide public services within the State of Idaho. The Director, Idaho Office of Emergency Management, will notify the Governor's Office.

G. Grant and/or use waivers in accordance with the applicable provisions of the Idaho Code for necessary disaster emergency response and recovery operations.

H. Coordinate with the Idaho Office of Emergency Management for any emergency management and homeland security related training and exercise necessary or required to meet state emergency prevention, protection, mitigation, response, and recovery objectives.

I. Coordinate with the Idaho Office of Emergency Management on any agreement or memorandum of understanding that incorporates prevention, protection, mitigation, response, and recovery functions of an emergency or disaster. Such agreements or memorandums of understanding may be integrated as part of the Idaho Emergency Operations Plan.

J. Participate in the state Public Information Emergency Response (PIER) Team program. Public Information Officers of each State agency are collaterally assigned to the State's PIER Team during emergencies and disasters. PIER Team members provide a level of public information expertise not otherwise available to state and local jurisdictions. In the event of emergencies, natural or man-made, PIER Team members can be activated and deployed, as necessary, to the IRC, Joint Information Center (JIC), field support offices and/or local jurisdictions.

K. Participate in the Senior Advisory Committee (SAC), as requested, to exchange information, validate preparedness efforts, and enhance capabilities statewide in the five homeland security mission areas of prevent, protect, mitigate, respond and recover.

L. Participate in disaster recovery planning. As requested, provide personnel for the support of disaster recovery committees necessary for economic and community recovery of disaster-impacted areas.

M. Provide state personnel, as requested, to assist in conducting damage assessment surveys following a disaster.

N. Coordinate with the Idaho Office of Emergency Management to develop and promote mitigation strategies for state-owned or state-leased buildings. The purpose of the mitigations strategies is to prevent or reduce damage caused by natural or manmade disaster events.

O. Coordinate with the Idaho Office of Emergency Management to provide support for mitigation, preparedness, and recovery programs and activities in line with the expertise and resources of the agency

II. COORDINATING INSTRUCTION

The Idaho Office of Emergency Management shall have authority to:

A. Draw upon subject matter experts, state agency leadership and existing advisory committees, commissions and councils to form a SAC, as required by the Homeland Security Grant Program. The SAC will serve as a forum to exchange information, validate preparedness efforts, and enhance capabilities statewide in the five homeland security mission areas of prevent, protect, mitigate, respond and recover. The SAC shall develop a governing charter consistent with grant funding requirements and will meet at least twice annually.

B. Coordinate state and federal emergency response, recovery and mitigation operations during emergencies and disasters. Provide technical support to local jurisdictions involved in local emergencies and disasters that do not require state resources.

C. Establish and maintain the Idaho Response Center for the coordination of emergency and disaster operations and information management activities.

D. Develop and coordinate the preparation and implementation of plans and programs for prevention, protection and mitigation to reduce the harmful consequences of disasters.

E. Help ensure state and local prevention, protection, mitigation, response and recovery plans are consistent with national plans and programs. Help ensure state agency plans are consistent with the State's emergency management goals and procedures. Develop annual or bi-annual requirements for promulgation and review of all such plans.

F. Coordinate collaborative emergency management and homeland security efforts with other state governments and federal agencies and private sector entities.

G. Coordinate all requests from state and local governments for disaster emergency assistance.

H. Manage the use of state emergency communications, alerts and warning systems. Develop and integrate auxiliary communications, and other volunteer communications programs and organizations into a state system or network. Develop, maintain and exercise a communications plan. Continue to enhance the communications capabilities and capacity of the Idaho Response Center with current and new technologies as follows;

I. Support administration of the State's Emergency Alert System (EAS) and Wireless Emergency Alert

System (WEA). Facilitate a viable and effective statewide alert system for impending natural or manmade disasters.

2. *Maintain the state emergency communications using adopted State and Federal High Frequency (HF) program and capabilities for emergencies and disasters communications.*
3. *Determine what statewide communication and warning requirements would improve emergency communications, and assist in the development and implementation of disaster emergency plans for use of all non-military communications and warning systems within the State.*

I. In coordination with the Governor's Press Secretary and/or Communications Director, coordinate and administer the Public Information Emergency Response (PIER) Team program in support of state and local emergency and disaster public information prevention, protection, mitigation, response and recovery objectives.

J. Function as the Homeland Security Advisor and State Administering Agency for federal emergency management, cybersecurity and homeland security grant programs.

K. Assist local governments with the development of all-hazard mitigation, preparedness, response, and recovery plans, training and exercises.

L. Administer federal programs for disaster emergency planning and assistance pertinent to state and local governments.

M. Provide ongoing validity assessment of the Idaho Emergency Operations Plan. Provide training for state agency personnel in the prevent, protect, mitigate, respond and recover mission areas.

N. As necessary, review and revise the Idaho Hazardous Materials Incident Command and Response Support Plan used by state agencies to ensure compliance with the Idaho Hazardous Substance Response act in the provision of state assistance for hazardous materials/WMD emergencies in Idaho.

O. Coordinate state and federal emergency response efforts for hazardous materials incidents.

P. Provide technical assistance to emergency response agencies in recovering hazardous materials emergency response costs under state and federal laws.

Q. Administer and coordinate the state-sponsored hazardous materials regional response teams.

Any emergency and recovery support function identified in the Idaho Emergency Operations Plan, or parts thereof, may be transferred from one governmental agency to another with the consent of the heads of the agencies involved and with the concurrence of the Director of the Idaho Office of Emergency Management. The Director, Idaho Office of Emergency Management, may assign any new emergency support function to the head of a governmental agency by mutual consent.

With the exception of participation in the Senior Advisory Committee, the head of each governmental agency is hereby authorized to delegate to their staff the assignments outlined by this Order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise 23rd day of September in the year of our Lord two thousand and twenty-two.

BRAD LITTLE
GOVERNOR

LAWRENCE DENNEY
SECRETARY OF STATE

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.01.04 – RULES GOVERNING THE VOLUNTARY IDAHO PREFERRED® PROMOTION PROGRAM

DOCKET NO. 02-0104-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

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

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

The rule was open for Zero Based Regulation rulemaking review, and two negotiated rulemaking meetings were held on March 16 and April 6. Proposed changes to the rule include the reduction of redundant, unnecessary, or out of date language. The most substantial change in the rule is to change the membership term from a fiscal year (July-June) term to a calendar year (Jan-Dec) term. Additionally, the rule was adopted as temporary and is currently in effect for the benefit of program customers, who will now have an extra six months of membership prior to renewal in January.

There are no changes to the pending rule, and it is being adopted as originally proposed. The original text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 13-18](#).

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:

Fees will be offered on a one-year or three-year basis. Fees will be listed in the participation application and will not exceed one thousand dollars (\$1,000) per year. The total amount to not exceed is unchanged from the prior rule.

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:

No changes to the fiscal impact of this rule are anticipated. The fee schedule is unchanged from the previous rule, with the only change being the timing of membership renewals.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

IDAPA 02.01.04 is neither broader in scope, nor more stringent than federal laws or regulations and do not regulate areas not already regulated by the federal government.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Laura Johnson, Bureau Chief, (208)332-8533 or laura.johnson@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
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IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.02.02 – RULES GOVERNING APPLE GRADING AND STORAGE
DOCKET NO. 02-0202-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-702, 22-802, and 22-803, 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.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

ISDA is required under 22-802, Idaho Code, to publish apple grades in a publication of regulations. Apple growers are then required to follow these grading regulations in the marketing of their produce.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 19-27](#).

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

IDAPA 02.02.02, Subchapter B – Controlled Atmosphere Storage, in its entirety, regulates an activity not already regulated by the federal government.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Stuart, Administrator, Division of Agricultural Inspection, at (208) 332-8500 or jared.stuart@isda.idaho.gov.

DATED this October 5, 2022.

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IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.04 – RULES FOR ARTIFICIAL DAIRY PRODUCTS
DOCKET NO. 02-0404-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 37-303, 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.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders. No negative comments were submitted as part of this rulemaking process.

The rule provides the authority for the enforcement of a written stop sale for artificial dairy products as determined by the Department. This rule is authorized by 37-303, Idaho Code. The issue of artificial dairy products in the marketplace cannot be authorized by non-regulatory measures.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 28-29](#).

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule regulates an activity not regulated by the federal government.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022.

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.15 – RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS

DOCKET NO. 02-0415-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the (year) 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-110 and 22-4903, 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.

This rule is being presented for authorization as part of the ISDA's plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor's [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders, including regulated industry and other stakeholders.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 30-35](#).

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

IDAPA 02.04.15.013, 02.04.15.031, 02.04.15.032, 02.04.15.040, are broader in scope than federal law or regulations.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022

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IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.17 – RULES GOVERNING DEAD ANIMAL MOVEMENT AND DISPOSAL
DOCKET NO. 02-0417-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-203, and 25-237, 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.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders, including regulated industry and other stakeholders.

This rule is necessary to effectively enforcement the statutory authorities found in 22-237, Idaho Code. The proposed changes ensure that the rule is clear and concise in accordance with the Executive Order.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 36-40](#).

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule in its entirety regulates an activity not regulated by the federal government.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022.

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IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE
02.04.25 – RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS
DOCKET NO. 02-0425-2201 (CHAPTER REPEAL)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-207A, 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 26, 2022.

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 Idaho Department of Fish and Game (IDFG) facilitated a Zero-Based Rulemaking (ZBR) re-write of IDAPA 13.01.18 Rules Governing Feeding of Wild Cervids (Docket No. 13-0118-2201). IDFG and the Idaho State Department of Agriculture (ISDA) have evaluated the potential to consolidate regulation of private feeding of wild cervids under IDFG's authority in this rule chapter, such that ISDA Rules Governing Private Feeding of Big Game Animals, IDAPA 02.04.25, is proposed to be repealed.

This proposed rulemaking includes changes to integrate current IDFG and ISDA restrictions into a single rule chapter under IDFG's authority to regulate the feeding of wildlife, to continue protection of the health of livestock, domestic cervids, domestic bison, and wildlife. For example, the proposed rule specifically identifies geographic areas identified in ISDA's current rule to prevent brucellosis transmission between wildlife and livestock. IDFG proposes to change rule wording (previously "pronghorn, elk, and deer") to distinguish "wild cervids" managed under IDFG authority from "domestic cervids" regulated under ISDA authority. The agency also proposes to present the statement of rule intent in the cover sheet published in the Administrative Code, instead of in the rule chapter itself as done currently. The rule also incorporates language related to the Commission's management of Chronic Wasting Disease in wild cervids.

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

There are no fees including in this rule.

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

There is no fiscal impact because of the repeal of this rule.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this is a repeal of a rule because of regulation of private feeding of big game animals that is otherwise implemented by another state agency, the Idaho Department of Fish and Game.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There is no Incorporation by Reference section in this rule that is proposed to be repealed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov or (208)332-8664.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

IDAPA 02.04.25 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.04.29 – RULES GOVERNING TRICHOMONIASIS
DOCKET NO. 02-0429-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-203, 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.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders, including regulated industry and other stakeholders.

The rule fulfills the statutory authorization and direction to prevent the spread of disease. As proposed, the rule fulfills the need for a regulatory framework to prevent the spread of trichomoniasis, while also meeting the expectations of the Executive Order.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 41-47](#).

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 association with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule regulates an activity not regulated by the federal government.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Dr. Scott Leibsle, Administrator, Division of Animal Industries, at (208) 332-8500 or scott.leibsle@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.02 – RULES GOVERNING REGISTRATIONS AND LICENSES
DOCKET NO. 02-0602-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

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 22-604, 22-2204, 22-2303(5), 22-2503, 22-2511, and 25-2710, 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.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders, including regulated industry and other stakeholders.

This rule includes subchapters that allow for the enforcement of statutes related to commercial feed, fertilizer, soil and plant amendments, and bee registration. The rule as presented, significantly reduces language that is redundant to language found in statute and/or incorporated documents. The rule ensures consistency and a clear outline of requirements between the authorizing statutes, incorporated documents, and details left to the rule.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 48-54](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section (cite specific statute authorizing the fee), Idaho Code.

Subchapter A – A product registration fee of \$40 per product, as authorized in statute.

Subchapter B – No fee included.

Subchapter C – No fee included in rule, fee is outlined in statute.

Subchapter D – No fee included in rule, fee is outlined in statute.

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule regulates an activity not regulated by the federal government.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Andrea Thompson, Section Manager, Division of Plant Industries, at (208) 332-8500 or andrea.thompson@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
Fax: (208) 334-2170
Email: rulesinfo@isda.idaho.gov

IDAPA 02 – DEPARTMENT OF AGRICULTURE
02.06.05 – RULES GOVERNING PLANT DISEASE AND QUARANTINES
DOCKET NO. 02-0605-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 22-2004 and 22-2006, 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.

This rule is being presented for authorization as part of the ISDA’s plan to review each rule every 5 years. Redundant language that is verbatim in statute has been removed, consistent with the Governor’s [Zero-Based Regulation Executive Order](#).

The rule was reviewed over the course of two negotiated rulemaking meetings, and that review benefited from the participation of program stakeholders, including regulated industry and other stakeholders.

This rule includes subchapters that provide for quarantine activities that are authorized in statute (Plant Pest Act). These quarantines provide for two primary services: First, the quarantines are in place to protect from the spread of pests and disease that can be harmful to the production of certain crops. Second, quarantine activities can be necessary to provide verification of disease or pest activities in order for Idaho grown crops to be eligible for export.

There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 55-66](#).

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 associated with this rulemaking.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The sections of the rule which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

The entire rule regulates an activity not regulated by the federal government.

The detailed 22-101A analysis can be found on the agency’s website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Andrea Thompson, Section Manager, Division of Plant Industries, at (208) 332-8500 or andrea.thompson@isda.idaho.gov.

DATED this October 5, 2022.

Lloyd B. Knight
Rules Review Officer
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8664
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IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.01.03 – RULES OF THE CUSTODY REVIEW BOARD

DOCKET NO. 05-0103-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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) 20-520(1)(t), 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.

This proposed rulemaking updates the Rules of the Custody Review Board to comply with [Executive Order 2020-01, Zero-Based Regulation](#) and updates to 20-502, 20-532 and 39-1202, Idaho Code, approved during the 2022 Legislative Session.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 80-86](#).

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:

No fiscal impact is anticipated with this rule. The Board is already in operation and this rule serves to update operating procedures.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Estela Cabrera at 208.577.5451.

DATED this 2nd day of September, 2022.

Monty Prow, Director
Idaho Department of Juvenile Corrections
954 W. Jefferson St.
P.O. Box 83720,
Boise, ID 83720-0285
Phone: 208.334.5100
Fax: 208.334.5120

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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 accordance with [Executive Order 2020-01](#), this rulemaking proposes amendments based on review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Amendments include combining duplicative language that applies to postsecondary degree granting institutions and proprietary schools into a single section. Any provisions duplicative of statutory language will also be removed.

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

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 87](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)332-1582
fax: (208)334-2632

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 08-0111-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)**

**08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS
AND PROPRIETARY SCHOOLS**

000. LEGAL AUTHORITY.

The following rules are made under authority of Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code. ()

001. SCOPE.

This rule sets forth the registration requirements for postsecondary educational institutions that are required to register with the Idaho State Board of Education (“Board”) under Section 33-2402, Idaho Code, and for proprietary schools required to register with the Board under Section 33-2403, Idaho Code. In addition, this rule describes the standards and criteria for Board recognition of accreditation organizations, for registration purposes. ()

002. DELEGATION.

The Board delegates authority to its Executive Director and the Office of the State Board of Education to administer the registration of postsecondary educational institution and proprietary schools, in accordance with Title 33, Chapter 24, Idaho Code, and this rule. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Nonprofit. Means an entity that is recognized under the Internal Revenue Code and applicable regulations as being tax exempt, or an entity such as a nonprofit or not-for-profit organization that possesses the following characteristics that distinguish it from a business enterprise: (a) contribution of significant amounts of resources from resource providers who do not expect commensurate or proportionate pecuniary return, (b) operating purposes other than to provide goods or services at a profit, and (c) absence of ownership interests like those of business enterprises. ()

02. Postsecondary Educational Institution. Sometimes referred to in this rule simply as an institution, is defined in Section 33-2401(8), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within, or which operates or purports to operate, from a location within, the state of Idaho, and which provides a course or courses of study that lead to a degree, or which provides, offers or sells degrees. ()

03. Proprietary School. Sometimes referred to in this rule simply as a school, is defined in Section 33-2401(9), Idaho Code, and means an individual, or educational, business or other entity, whether legally constituted or otherwise, which maintains a presence within, or which operates or purports to operate, from a location within the state of Idaho and which conducts, provides, offers or sells a course or courses of study, but which does not provide, offer or sell degrees. ()

011. -- 099. (RESERVED)

100. RECOGNITION OF ACCREDITATION ORGANIZATIONS.

For purposes of registration of postsecondary educational institutions, the Board recognizes the regional accreditation organizations that are recognized by and in good standing with the United States Department of Education, and which accredit entire colleges or universities, and which do not accredit only courses or courses of study (such as specialized accreditation organizations). Further, the Board may recognize other accreditation organizations on a case-by-case basis. A request for recognition of other accreditation organizations for purposes of registration should be made to the Board’s Chief Academic Officer, who will review and evaluate the request with the input and advice of the Board’s Committee on Academic Affairs and Programs (CAAP). The Board will make a final decision based on such evaluation and review. ()

101. REGISTRATION

01. Registration Requirement. Unless exempted by statute or this rule, as provided herein, an institution or school which maintains an Idaho presence, or that operates or purports to operate from a location within the state of Idaho, shall register annually and hold a valid certificate of registration issued by the Board. An institution shall not conduct, provide, offer, or sell a course or courses of study, or degree unless registered. A school shall not solicit students for or on behalf of such school, or advertise in the state unless registered. ()

a. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. Registration must be renewed annually. Renewal of registration is not automatic. ()

b. An institution or school shall be deemed to have a presence in Idaho, or to be operating or purporting to be operating from a location within the state of Idaho, if it owns, rents, leases, or uses any office or other type of physical location in Idaho, including a mailing or shipping center, or if it represents in any way, such as on an electronic or Internet website, to have an Idaho street or mailing address, including a post office box in Idaho, for purposes of conducting, providing, offering or selling a course or courses of study or degrees. ()

c. An institution or school that is required to register under this rule must submit to the Board office an application for registration (either an application for initial registration or renewal of registration, as applicable), on the form provided by the Board office. The application must include a list of each course, course of study, and degree the applicant institution intends to conduct, provide, offer, or sell in Idaho during the registration year. ()

d. The annual registration fee for initial registration or renewal of registration must accompany the application for registration, and shall be one-half of one percent (.5%) of the gross Idaho tuition revenue of the school during the previous tax reporting year (Jan 1 - Dec 31), but not less than one hundred dollars (\$100) and not to exceed five thousand dollars (\$5,000). The school shall provide documentation to substantiate the amount of revenue reported. Registration fees are nonrefundable. ()

e. An initial application for registration may be submitted to the Board at any time. The review process for an initial registration will take approximately three (3) to five (5) months. An application for renewal of registration must be submitted to the Board on or before the first business day of May that precedes the registration year. The renewal will be processed within thirty (30) days. Institutions or schools that do not adhere to this schedule and whose renewals are not processed by July 1st must cease all active operations until approval of registration is received. ()

102. THE BOARD MAY NOTIFY THE INSTITUTION OR SCHOOL OF ADDITIONAL INFORMATION REQUIRED.

If the Board is unable to determine the nature and activities of an institution or school on the basis of the information provided by the institution or school, then the Board may notify the institution or school of additional information that it will be required to provide in connection with the application for registration. ()

01. Verification of Information. The Board may verify the accuracy of submitted information by inspection, visitation, or any other means it considers necessary. The applicant institution shall be responsible for any costs the Board incurs, including travel, associated with this review. ()

02. Criteria for Approval of Registration. To be approved for registration, the institution or school must demonstrate that it is in compliance with Chapter 24, Title 33, Idaho Code and this rule. An institution or school must remain in compliance for the registration year. ()

03. Public Information. All information submitted to the Board in connection with the application is subject to disclosure as set forth in the Public Records Act, Chapter 1, Title 74, Idaho Code. ()

04. Certificate of Registration or Exemption. ()

a. A certificate of registration will be issued to an institution or school that has paid its registration fee and has been approved under this rule. A certificate evidencing initial registration will be effective the date it is issued, and continue through June 30 of the next succeeding year. A renewal certificate will be for the period July 1 through June 30 of the next succeeding year. No institution or school that is registered with the Board shall advertise or represent in any manner that it is accredited or endorsed by the Board. An institution or school may only represent that it is “Registered with the Idaho State Board of Education.” Registration is not an endorsement of the institution or school or any of its courses, courses of study, or degrees. ()

b. An institution or school exempt from registration under these rules may request a certificate of exemption. ()

c. If an institution or school wishes to offer additional courses, courses of study, or degrees during a registration year that were not included in its annual registration application to the Board, then the institution or school must submit a letter to the Board Office along with documentation of its accrediting agency or by the applicable professional or trade board, council, or commission’s approval of the specific changes. ()

05. Disapproval and Appeal. If an institution’s or school’s request for initial registration, or renewal of registration, is disapproved by the Board, then the institution or school may appeal such decision within thirty (30) days of the date the institution or school is notified of the disapproval. ()

06. Withdrawal of Approval. ()

a. The Board may refuse to renew, or may revoke or suspend approval of, an institution or school’s registration by giving written notice and the reasons therefore to the institution or school. The institution or school may request a hearing relating to such decision under IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

b. Withdrawal of approval may be for one (1) or more of the following reasons: ()

i. Violation of Chapter 24, Title 33, Idaho Code or this rule; ()

ii. Providing false, misleading, deceptive, or incomplete information to the Board; ()

iii. Presenting information to prospective or current students which is false, fraudulent, misleading, deceptive, or inaccurate in a material respect; ()

iv. Refusing to allow reasonable inspection or to supply reasonable information after a written request by the Board Office has been received; or ()

v. Loss of accreditation status. ()

c. If any information contained in the application submitted by the institution or school becomes incorrect or incomplete, then the registered institution or school shall notify the Board office of such change within thirty (30) days. An institution or school that ceases operation during the course of a registration year shall immediately inform the Board Office of this event. ()

103. -- 199. (RESERVED)

200. REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Registration Requirement. ()

a. A new or start-up entity that desires to operate as a postsecondary educational institution in Idaho but which is not yet accredited by an accreditation organization recognized by the Board must register and operate as a proprietary school until accreditation is obtained. A new or start-up entity that is accredited and authorized to operate in another state, and which desires to operate as a postsecondary educational institution in Idaho offering degrees for which specialized program accreditation is required, may be granted approval to operate subject to the

successful attainment of such program accreditation within the regular program accreditation cycle required by the accreditor. ()

b. There is no inherent or private right to grant degrees in Idaho. That authority belongs only to institutions properly authorized to operate in Idaho under these rules. ()

02. Idaho Presence. ()

a. Idaho presence shall include medical/osteopathic education clinical instruction occurring in the state of Idaho as part of a course of study leading to a degree pursuant to a formal multi-year arrangement or agreement between such clinic and an institution providing medical/osteopathic education instruction where eleven (11) or more students of the institution are physically present simultaneously at a single field site. ()

b. Idaho presence shall not include: ()

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 200.03.a. of this rule; ()

ii. Medical education instruction occurring in the state of Idaho by an institution pursuant to a medical education program funded by the state of Idaho; ()

iii. Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or ()

iv. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. ()

03. Institutions Exempt from Registration. ()

a. Provided that they remain lawfully organized in the state of Idaho with their principal place of business in Idaho, and remain accredited by an accreditation organization recognized by the Board, the following private, nonprofit, postsecondary educational institutions that were established and operational as of the date when this rule first went into effect, are exempt from registration: Brigham Young University - Idaho, College of Idaho, Northwest Nazarene University, New Saint Andrews College, Boise Bible College. An institution exempt under this subsection may voluntarily register by following the procedure for registration provided herein. ()

b. Idaho religious institutions. A religious institution located within the state of Idaho that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that grants only religious degrees shall not be required to register. ()

04. Institutions That Must Register. Unless exempt under Subsection 200.03 of this rule, any entity that desires to operate as a postsecondary educational institution in Idaho must register as provided herein. ()

05. Information Required. ()

a. An application must include all the information requested on the application form, as well as the following information: ()

i. Copy of most recent accreditation letter showing the period of approval; ()

ii. Current list of chief officers - e.g. president, board chair, chief academic officer, chief fiscal officer; ()

iii. Enrollment data for current and past two (2) years; ()

iv. Copy of annual audited financial statement, or other financial instrument as established by the executive director; ()

v. Any additional information that the Board may request. ()

vi. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, and other relevant information to assist students in making an informed decision to enroll. Institutions offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. Institutions with courses or courses of study that have not been fully accredited must disclose to prospective students in these courses or courses of study the accreditation status of the program and anticipated date for full accreditation. ()

b. The Board may, in connection with a renewal of registration, request that an institution only submit information that documents changes from the previous year, provided that the institution certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee, described in Subsection 101 of this rule, shall remain applicable. ()

201. -- 299. (RESERVED)

300. REGISTRATION OF PROPRIETARY SCHOOLS.

01. Registration Requirement. ()

a. For a school that has not previously registered with the Board, registration shall be for the period beginning on the date of issuance of a certificate of registration and continue through June 30 of the next succeeding year. ()

b. Renewal of registration shall be for the period beginning on July 1 of any year, and continue through June 30 of the next succeeding year. ()

02. Idaho Presence. ()

a. Idaho presence shall not include: ()

i. Distance or online education delivered by an institution located outside of the state of Idaho to students in this state when the institution does not otherwise have physical presence in Idaho, as provided in Subsection 101 of this rule; ()

ii. Internship or cooperative training programs occurring in the state of Idaho where students are employed by or provide services to a business or company in this state and receive course credit from an institution related to such activities; or ()

iii. Activities limited to the recruiting or interviewing of applicants or potential students in the state of Idaho, whether conducted by a compensated employee, agent, or representative of an institution, or by volunteer alumnus of an institution, even if such individual is physically located in this state. ()

03. Exemptions from Registration. In addition to those individuals or entities that are specifically exempt from registration pursuant to Section 33-2403, Idaho Code, the following individuals or entities are: ()

04. Application Information Required. In addition to providing the information requested on the application form, a school must attest by signature of the primary official that it is in compliance with Standards I through V set forth in Section 301 of this rule and must provide verification of compliance with Standards I through V set forth in Section 301 of this rule upon request. The Board may, in connection with a renewal of registration, request that a school only submit information that documents changes from the previous year, provided that the

school certifies that all information and/or documentation submitted in a previous registration year remains current. The annual registration fee shall remain applicable. ()

301. APPROVAL STANDARDS FOR REGISTRATION OF PROPRIETARY SCHOOLS.

The Board and its designee accepts the responsibility for setting and maintaining approval standards for proprietary schools that plan to offer courses or a set of related courses in or from Idaho in order to protect consumers and to ensure quality educational programs are provided throughout the state. A school must meet all of the standards prior to issuance of a certificate of registration and the school must provide required evidence to document compliance with the standards as identified in the application form. A certificate of registration may be denied if all of the standards are not met. ()

01. Standard I - Legal Status and Administrative Structure. The school must be in compliance with all local, state and federal laws, administrative rules, and other regulations applicable to proprietary schools. ()

a. The school must have a clearly stated educational purpose that is consistent with the courses or a set of related courses under consideration for approval. ()

b. The ownership of the school, its agents, and all school officials must be identified by name and title. ()

c. Each owner, agent, instructor and/or school official must be appropriately qualified by the trade board (as applicable) to ensure courses are of high quality and the rights of students are protected. ()

d. Written policies must be established to govern admissions and re-admission of dismissed students, hiring procedures, and working conditions; evaluation/assessment of all employees and instructional offerings; student and instructor rights and responsibilities; grievance procedures; approval of the curriculum and other academic procedures to ensure the quality of educational offerings. ()

e. Procedures for assessing/evaluating the effectiveness of instruction must be established. Evaluation and assessment results must be used to improve courses or courses of study. ()

f. All advertising, pamphlets, and other literature used to solicit students and all contract forms must accurately represent the purpose of the school, its courses or courses of study, anticipated job opportunities, and other relevant information to assist students in making an informed decision to enroll. Schools offering courses or courses of study which require clinical, practicum or internship components must provide students in writing information regarding the number of clinical, practicum or internship positions available and the location of said positions. The school must provide to each prospective student, newly-enrolled student, and returning student complete and clearly presented information indicating the school's current completion and job placement rate. ()

02. Standard II - Courses or Courses of Study. Instruction must be the primary focus of the school. All courses or courses of study must prepare students to enter employment upon completion of the program or prepare them for self-employment. ()

a. The requirements for each course or courses of study must be defined clearly including applicable completion requirements or other requirements such as practicums and clinicals. Courses or courses of study must follow applicable trade or occupational board training curriculum standards or be designed using effective learning strategies for students, identifying and organizing all instructional materials and specialized facilities, identifying instructional assessment methods, and evaluating the effectiveness of the course offerings. Applicants must include an attestation that courses or courses of study applicable to occupations, which are otherwise regulated, licensed, or registered with another state agency or state board, meet the regulating state agency or state board standards for licensure or certification at the time of application. The office of the state board of education does not review course or program curriculum. ()

b. Written course descriptions must be developed for all courses or courses of study. Written course descriptions must be provided to instructors. Instructors are expected to follow course descriptions. A syllabus must be developed for each course and distributed to students at the beginning of the course. ()

c. The school must assure that a course or courses of study will be offered with sufficient frequency to enable students to complete courses or courses of study within the minimum time for completion. ()

d. The school must clearly state the cost of each course or courses of study and identify the payment schedule. This information, and the refund policy, must be given to students in writing. ()

03. Standard III - Student Support Services. The school must have clearly defined written policies that are readily available to students. Policies must address students rights and responsibilities, grievance procedures, and define what services are available to support students. ()

a. The admission of students must be determined through an orderly process established in a written policy using published criteria which must be uniformly applied. Admissions decisions must take into account the capacity of the student to grasp and complete the instructional training program and the ability of the school to handle the unique needs of the students it accepts. ()

b. There must be a clearly defined policy to re-evaluate students dismissed from the school and, if appropriate, to readmit them. ()

c. The school must establish and adhere to a clear and fair policy regarding due process in disciplinary matters for all students, given to each student upon enrollment in the school. The school must provide the name and contact information for the individual who is responsible for dealing with student grievances and other complaints and for handling due process procedures. ()

d. Prior to enrollment, all prospective students must receive the following information in writing: ()

i. Information describing the purpose, length, and objectives of the courses or courses of study; ()

ii. Completion requirements for the courses or courses of study; ()

iii. The schedule of tuition, fees, and all other charges and all expenses necessary for completion of the courses or courses of study; ()

iv. Cancellation and refund policies; ()

v. An explanation of satisfactory progress, including an explanation of the grading/assessment system; ()

vi. The calendar of study including registration dates, beginning and ending dates for all courses, and holidays; ()

vii. A complete list of instructors and their qualifications; ()

viii. A listing of available student services; and ()

e. Accurate and secure records must be kept for all aspects of the student record including, at minimum, admissions information, and the courses each student completed. ()

04. Standard IV - Faculty/Instructor Qualifications and Compensation. ()

a. Instructor qualifications (training and experience) must be recorded and available to students. ()

b. There must be a sufficient number of full-time instructors to maintain the continuity and stability of courses. ()

- c. The ratio of instructors to students in each course must be sufficient to assure effective instruction. ()
- d. Commissions may not be used for any portion of the faculty compensation. ()
- e. Procedures for evaluating instructors must be established. Provisions for student evaluation are recommended. ()
- 05. Standard V - Resources, Finance, Facilities, and Instructional Resources. ()**
 - a. Adequate financial resources must be provided to accomplish instructional objectives and to effectively support the instructional program, including classroom and training facilities, instructional materials, supplies and equipment, instructors, staff, library, and the physical and instructional technology infrastructure. ()
 - b. The school must have sufficient instructional resource materials so that, together with tuition and fees, it is able to complete its educational obligations to currently enrolled students. If the school is unable to fulfill its obligations to students, the school must make arrangements for a comparable teach-out opportunity with another proprietary school or refund one hundred (100) percent of prepaid tuition. ()
 - c. School financial/business records and reports must be kept separate and distinct from those of any affiliated or sponsoring person or entity. Financial records and reports at a school shall be kept in accordance recognized financial accounting methods. ()
 - d. The school must have adequate instructional resource materials available to students, either on site or through electronic means. These materials must be housed in a designated area and be available for students and instructors with sufficient regularity and at appropriate hours to support achievement of course objectives or to promote effective teaching. ()
 - e. If the school relies on other schools or entities to provide library resources or instructional resources, the school must demonstrate how these arrangements effectively meet the needs of students and faculty. These arrangements must be documented through written agreements. Student and faculty use must be documented and frequently evaluated to ensure quality services are being provided. ()

302. ADDITIONAL REQUIREMENTS.

- 01. Agent's Certificate of Identification.** Each proprietary school shall ensure that its agents have a valid certificate of identification, and that all of its agents are in compliance with Section 33-2404, Idaho Code. The school shall complete a criminal history check that includes, at a minimum, the State Bureau of Identification, and statewide sex offender registry for each agent having unsupervised contact with minors in the minor's home or at secondary schools, prior to making application for the agent's certificate of identification. The criminal history check shall be valid for five (5) years and be kept on file by the school. When an employee returns to any proprietary school after a break in service of six (6) months or more a new criminal history check must be obtained. When an employee changes employment between proprietary schools, a new criminal history check must be obtained by the new employer. ()
 - a. The Board shall revoke any agent's certificate of identification issued or authorized under this Section and shall deny the application for issuance of a new certificate of identification of a person who pleads guilty to, or is found guilty of, notwithstanding the form of the judgment or withheld judgment, any of the following felony offenses against a child: ()
 - i. The aggravated assault of a child, Section 18-905, Idaho Code, or the assault with intent to commit a serious felony against a child, Section 18-909, Idaho Code. ()
 - ii. The aggravated battery of a child, Section 18-907, Idaho Code, or the battery with intent to commit a serious felony against a child, Section 18-911, Idaho Code. ()

- iii. The injury or death of a child, Section 18-1501, Idaho Code. ()
 - iv. The sexual abuse of a child under sixteen (16) years of age, Section 18-1506, Idaho Code. ()
 - v. The ritualized abuse of a child under eighteen (18) years of age, Section 18-1506A, Idaho Code. ()
 - vi. The sexual exploitation of a child, Section 18-1507, Idaho Code. ()
 - vii. Possession of photographic representations of sexual conduct involving a child, Section 18-1507A, Idaho Code. ()
 - viii. Lewd conduct with a child under the age of sixteen (16) years, Section 18-1508, Idaho Code. ()
 - ix. The sexual battery of a minor child sixteen (16) or seventeen (17) years of age, Section 18-1508A, Idaho Code. ()
 - x. The sale or barter of a child for adoption or other purposes, Section 18-1511, Idaho Code. ()
 - xi. The murder of a child, Section 18-4003, Idaho Code, or the voluntary manslaughter of a child, Section 18-4006 1., Idaho Code. ()
 - xii. The kidnapping of a child, Section 18-4502, Idaho Code. ()
 - xiii. The importation or exportation of a juvenile for immoral purposes, Section 18-5601, Idaho Code. ()
 - xiv. The abduction of a person under eighteen (18) years of age for prostitution, Section 18-5610, Idaho Code. ()
 - xv. The rape of a child, Section 18-6101 or 18-6108, Idaho Code. ()
- b.** The general classes of felonies listed in Section 302 shall include equivalent laws of federal or other state jurisdictions. For the purpose of Subsection 302.07, “child” means a minor or juvenile as defined by the applicable state or federal law. ()
- 02. Surety Bond.** Each proprietary school shall comply with the provisions in Section 33-2406, Idaho Code, relating to a surety bond. ()
- a.** The amount of the surety bond shall be not less than the total tuition and fees to be collected by the school from its students, currently engaged in instructional activities, that covers the period from the beginning through completion of the course of instruction the student has contracted and paid for. This amount shall be based upon the projected tuition and fee revenue for the coming registration year, subject to modification in the event a school experiences significant changes in tuition and fee revenue during the current year. The Executive Director shall determine the appropriate format and method by which this bond value is to be calculated and reported. ()
 - b.** Schools must keep a valid bond in force, via periodic renewal as needed, throughout the entire registration year with no lapse in coverage. Schools shall ensure that all bonds include “extended coverage” clauses to remain in effect for one hundred twenty (120) days after the date of a school’s closure. ()
 - c.** No party to the surety bond may cancel without one hundred twenty (120) day prior notice to all parties, including the Office of the State Board of Education. ()
 - d.** The Board shall be the beneficiary of the bond and shall oversee the distribution of funds to students who file claims. Schools shall provide proof of the required bond and submit said documentation with their registration applications. ()

303. -- 399. (RESERVED)

400. ENFORCEMENT.

The Board, acting by and through its Executive Director may initiate on its own initiative any investigation relating to a violation of the state laws or rules relating to the requirement that an institution or school register with the Board pursuant to Title 33, Chapter 24, Idaho Code. ()

401. -- 499. (RESERVED)

500. COMPLAINTS.

A complaint concerning an institution or school operating in the State of Idaho (maintaining an Idaho presence) that pertains to a matter described herein shall be reviewed and acted upon as appropriate in accordance with the specific procedures described below: ()

01. Violations of State Consumer Protection Laws. A complaint alleging a violation of Idaho consumer protection laws shall be instituted, reviewed, and acted upon in accordance with IDAPA 04.02.01, "Idaho Rules of Consumer Protection, Office of the Attorney General." ()

02. Violations of State Laws or Rules Related to the Registration of Postsecondary Educational Institutions and Proprietary Schools. A complaint alleging violations of state laws or rules related to the requirement that an institution or school register with the Board shall be submitted in writing to the Board's Executive Director for investigation and appropriate enforcement action, including the remedies specified in Section 33-2408, Idaho Code. ()

03. Complaints Related to Quality of Education, or Other Matters. ()

a. A complaint relating to the quality of education provided by an institution or school or accreditation matters, or any other matter related to the operations or practices of an institution or school other than a state consumer protection matter, shall be submitted on a form provided by the Board to the Executive Director for review and appropriate action. ()

b. If after initial review the Executive Director determines that the complaint relates to the quality of education or accreditation matters, the Executive Director may refer the matter to the accreditation organization of the institution or school at issue for review and recommendation. If a matter referred to an accreditation organization results in resolution of the complaint to the satisfaction of the complainant, then the matter shall be considered resolved and there shall be no further action on the matter. If the matter is not successfully resolved, then the Executive Director will review the recommendation of the accreditation organization and follow the procedures for investigations of complaints described in Subsection 500.03.c. of these rules. ()

c. If the complaint pertains to any other matter related to the operations or practices of an institution or school, other than a state consumer protection matter, then the Executive Director will review the complaint to determine whether such complaint falls within the regulatory authority of the Board. If it does not, then Board office will notify the complainant in writing of such determination, and may offer referral of such matter to an appropriate agency or entity. If after initial review the Executive Director determines that the complaint falls within the regulatory authority of the Board, then Board staff will notify both the complainant and the respondent institution or school of the complaint resolution process to be utilized and applicable timelines. The review and investigation of a complaint shall occur as expeditiously as possible. The parties may be asked to respond in writing to the complaint, to submit to interviews, and to provide additional records, documents, statements, or other collateral information as necessary. Any request by the investigator for additional information related to such complaint must be provided promptly. The Board's investigator will review the materials submitted by all parties and at the conclusion of the investigation prepare a summary of the allegations, the investigator's findings, and a recommendation for disposition to the Executive Director. If the Executive Director determines that the facts indicate a probable violation of law or rule over which the Board has regulatory authority, then the Executive Director shall issue a written decision on the disposition of such complaint. Within thirty (30) days after a decision is issued a party aggrieved by such decision may file with the Executive Director a request for a hearing. The provisions of the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, shall apply to such hearing and to judicial review of such decision. ()

d. If the Board office receives a complaint relating to an institution or school that is exempt from registration under Idaho law or these rules, and such institution or school has not elected to voluntarily register, then such institution or school shall be responsible for reimbursing the Board office for the actual costs incurred to process and act on such complaint. ()

501. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION
08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM
DOCKET NO. 08-0113-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, 33-107, 33-2402, and 33-2403, Idaho Code, to implement the provisions of Chapter 24, Title 33, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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 accordance with [Executive Order 2020-01](#), this rulemaking will amend the chapter based on an evaluation of how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language will be removed.

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

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 88](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)332-1582
fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0113-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, and 33-4303, Idaho Code, the State Board of Education (Board) shall promulgate rules implementing the provisions of Title 33, Chapter 56, Idaho Code. ()

001. SCOPE.

These rules constitute the requirements for the Opportunity Scholarship Program. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Adult Learner. An individual who: ()

a. Is not currently enrolled in a postsecondary institution accredited by a body recognized by the State Board of Education; ()

b. Has not attended more than two (2) courses at a postsecondary institution at any time during the twenty-four (24) month period immediately prior to application for the Opportunity Scholarship; and ()

c. Has earned twenty-four (24) or more transferable credits from a postsecondary institution accredited by a body recognized by the State Board of Education. ()

02. Grade Point Average (GPA). The average grade earned by a student, figured by dividing the grade points earned by the number of credits attempted. ()

03. Graduation Plan. A plan developed by the postsecondary student in consultation with the postsecondary institution that identifies the certificate or degree the student is pursuing, the course and credit requirements necessary for earning the certificate or degree, the application of previously earned credits and credits granted through prior learning assessments, the estimated number of terms remaining to complete the certificate or degree and the proposed courses to be taken during each term. ()

011. -- 100. (RESERVED)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. ()

01. Academic Eligibility. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: ()

a. A student who has not yet graduated from an eligible secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of two point seven (2.7) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or ()

b. A student who has obtained a general equivalency diploma must have taken the ACT assessment

and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or ()

c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of two point seven (2.7) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. ()

d. An Adult Learner must have a minimum cumulative grade point average of two point five (2.5) or higher on a scale of four point zero (4.0). Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) decimal place. ()

02. Financial Eligibility. The financial need of an applicant for an opportunity scholarship will be based upon the verified expected family contribution, as identified by the free application for federal student aid (FAFSA) Student Aid report. The Student Aid report used to calculate financial need will be the report generated on the scholarship application deadline. ()

03. Additional Eligibility Requirements. ()

a. A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. ()

b. If a student has attempted or completed more than one hundred and twenty (120) postsecondary credits, then such student must identify a major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: ()

i. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or ()

ii. Upon review of the student's academic transcript(s), the student cannot complete a degree/certificate in the major identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. ()

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the date specified in the application, but not later than the deadline set by the executive director each year. Adult Learner applications will be processed and awarded on a monthly basis up to the application deadline. An applicant without electronic capabilities may request a waiver of this requirement and, if granted, submit an application on the form established by the Board through the United States Postal Service that must be postmarked not later than the applicable application deadline. The FAFSA must be completed on or prior to the application deadline. ()

02. Announcement of Award. Announcement of the award of initial scholarships will be made no later than June 1 of each year, with awards to be effective at the beginning of the first full term following July 1 of that year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcement may be made after this date based on the availability of funds and the acceptance rate of the initial awards. ()

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the scholarship unless extenuating circumstances are involved and approved by

the executive director or designee. ()

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: ()

a. Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted an application to the Board earlier in time will be assigned a higher rank. ()

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules. ()

02. Monetary Value of the Opportunity Scholarship. ()

a. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: ()

i. The amount of the assigned student responsibility, established by the Board annually; ()

ii. The amount of federal grant aid, as identified by the Student Aid Report (SAR) that is known at the time of award determination; ()

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. ()

iv. The eligible maximum award amount for Adult Learners enrolled in less than twenty-four (24) credit hours or its equivalent in an academic year attending an eligible four-year postsecondary institution, or less than eighteen (18) credit hours or its equivalent in an academic year attending an eligible two-year institution, will be prorated as follows: ()

(1) Enrolled in six (6) to eight (8) credits or its equivalent per term - fifty percent (50%) of the maximum; ()

(2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term - seventy-five percent (75%) of the maximum; and ()

(3) Enrolled in twelve (12) or more credits or its equivalent per term - one hundred percent (100%) of the maximum. ()

b. The amount of an opportunity scholarship award to an individual student shall not exceed the actual cost of tuition and fees at the institution the student attends or will attend, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. ()

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the

payment. ()

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship may cover up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. ()

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. ()

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program. ()

01. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. Notwithstanding these provisions, a scholarship recipient who has received the Opportunity Scholarship as an Adult Learner may retain eligibility by completing twelve (12) or more credit hours or its equivalent each academic year the student received the Opportunity Scholarship award. All students may use the summer term to meet the annual credit accumulation requirements. ()

02. Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient must have maintained a minimum cumulative grade point average of two point seven (2.7) on a scale of four point zero (4.0), and must be maintaining satisfactory academic progress toward their identified postsecondary credential as determined by the institution they are enrolled in. Students receiving an Opportunity Scholarship award as an Adult Learner must make satisfactory progress on their graduation plan established with the eligible institution at the time of admission. ()

03. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than thirty (30) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made thirty (30) days prior to the start of the succeeding academic year. ()

303. -- 399. (RESERVED)

400. RESPONSIBILITIES OF ELIGIBLE IDAHO POSTSECONDARY EDUCATIONAL INSTITUTIONS.

01. Statements of Continuing Eligibility. An eligible Idaho postsecondary educational institution participating in this Opportunity Scholarship Program must submit statements of continuing student eligibility to the Board by the 30th day after the end of the spring semester or equivalent term. Such statements must include

verification that the scholarship recipient is still enrolled, attending part-time, if an Adult Learner, and full-time for all other scholarship recipients, maintaining satisfactory academic progress, and has not exceeded the award eligibility terms. ()

02. Other Requirements. An eligible Idaho postsecondary educational institution must: ()

a. Be eligible to participate in Federal Title IV financial aid programs, and must supply documentation to the Board verifying this eligibility, and prompt notification regarding any changes in this status; ()

b. Have the necessary administrative computing capability to administer the Opportunity Scholarship Program on its campus, and electronically report student data records to the Board; ()

c. Provide data on student enrollment and federal, state, and private financial aid for students to the Board within set timelines, and ()

d. Agree to permit periodic Opportunity Scholarship Program audits to verify compliance with Idaho law and these rules related to the program. ()

03. Adult Learner Evaluation. Upon admission, scholarship recipients receiving an award as an Adult Learner will be administered prior learning assessments to determine eligibility for credit for prior learning, including credit for prior experiential learning. As part of this process an eligible institution will work with the student to develop a graduation plan for the program they are entering that includes estimated completion dates. ()

401. -- 500. (RESERVED)

501. APPEALS.

An opportunity scholarship applicant or recipient adversely affected by a decision made under provisions of these rules may file a written appeal detailing the basis of the appeal within thirty (30) days following notice of the decision. Decisions based on specific requirements established in Idaho Code or these rules may not be appealed. The appeal must be submitted to the executive director of the Board. The office of the board shall acknowledge receipt of the appeal within seven (7) days. The executive director of the Board may or may not agree to review the action, or may appoint a subcommittee of three (3) persons to hear the appeal, including at least one (1) financial aid administrator at an eligible postsecondary educational institution in Idaho. ()

01. Board Decision. The decision of the Board is final, binding, and ends all administrative remedies, unless otherwise specifically provided by the Board. The Board will inform the opportunity scholarship applicant or recipient in writing of the decision of the Board. ()

502. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under Sections 33-105, 33-107, 33-116, 33-1006, 33-1201 and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2022.

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 accordance with [Executive Order 2020-01](#), proposed amendments are based on a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Any provisions duplicative of statutory language are removed. Additional amendments include amendments that streamline and clarify the certification requirements for certificated staff in our public schools and provide clarification to certification and endorsement requirements due to legislative changes made during the 2022 Legislative Session; and amendments to transportation reimbursement requirements for alternative fuel buses and extending the maximum mileage allowed for trips outside of the state of Idaho. Additional technical corrections identified as part of the negotiated rulemaking process may be made.

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

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 89](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rule includes two incorporated by reference documents establishing minimum standards for drivers education programs and school bus operations. These provisions are very technical in nature and do not lend themselves to the required formatting for Administrative Rules. The proposed rule amendments amend the Standards for Idaho School Bus Operations Manual.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)332-1582
fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-2201
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The State Board of Education adopts and incorporates by reference into its rules: (3-15-22)

01. Standards for Idaho School Buses and Operations as approved on ~~November 15, 2017~~ August 24, 2022. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at <https://boardofed.idaho.gov>. (~~3-15-22~~)()

02. Operating Procedures for Idaho Public Driver Education Programs as approved on June 16, 2016. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at <https://boardofed.idaho.gov>. (3-15-22)

005. -- 006. (RESERVED)

007. DEFINITIONS.

01. Clinical Experience. Guided, hands-on, practical applications and demonstrations of professional knowledge of theory to practice, skills, and dispositions through collaborative and facilitated learning in field-based assignments, tasks, activities, and assessments across a variety of settings. Clinical experience includes field experience and clinical practice as defined in this section. (3-15-22)

02. Clinical Practice. Student teaching or internship opportunities that provide candidates with an intensive and extensive culminating field-based set of responsibilities, assignments, tasks, activities, and assessments that demonstrate candidates' progressive development of the professional knowledge, skills, and dispositions to be effective educators. Clinical practice includes student teaching and internship. (3-15-22)

03. Credential. The general term used to denote the document on which all of a person's educational certificates and endorsements are listed. The holder is entitled to provide educational services in any and/or all areas listed on the credential. (3-15-22)

04. Endorsement. Term used to refer to the content area or specific area of expertise in which a holder is granted permission to provide services. (3-15-22)

05. Field Experience. Early and ongoing practice opportunities to apply content and pedagogical knowledge in Pre-K-12 settings to progressively develop and demonstrate knowledge, skills, and dispositions. (3-15-22)

06. Individualized Professional Learning Plan. An individualized professional development plan based on the Idaho framework for teaching evaluation as outlined in Section 120 of these rules to include interventions based on the individual's strengths and areas of needed growth. (3-15-22)

07. Institutional Recommendation. Signed form or written verification from an accredited institution with a state board approved educator preparation program stating that an individual has completed the program, received a basic or higher rating in all components of the approved Idaho framework for teaching evaluation, has an individualized professional learning plan, has demonstrated the ability to produce measurable student achievement or student success, has the ability to create student learning objectives, and is ~~now being~~ recommended for state certification. Institutional recommendations must include statements of identified competency areas and grade ranges. Institutional Recommendation for administrators must additionally include a competency statement indicating proficiency in conducting accurate evaluations of instructional practice based upon the state's framework

for evaluation as outlined in Section 120 of these rules.

(3-15-22)()

08. Internship. Full-time or part-time supervised clinical practice experience in Pre-K-12 settings where candidates progressively develop and demonstrate their knowledge, skills, and dispositions. (3-15-22)

09. Local Education Agency (LEA). An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. (3-15-22)

10. Paraprofessional. A noncertificated individual who is employed by a local education agency to support educational programming. Paraprofessionals must work under the direct supervision of a properly certificated staff member for the areas they are providing support. Paraprofessionals cannot serve as the teacher of record and may not provide direct instruction to a student unless the paraprofessional is working under the direct supervision of a teacher. (3-15-22)

a. To qualify as a paraprofessional the individual must have a high school diploma or general equivalency diploma (GED) and: (3-15-22)

i. Demonstrate through a state board approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed ~~as applicable to~~ in the academic areas they are providing support in; or (3-15-22)()

ii. Have completed at least two (2) years of study at an accredited postsecondary educational institution; or (3-15-22)

iii. Obtained an associate degree or higher level degree; demonstrate through a state board approved academic assessment knowledge of and the ability to assist in instructing or preparing students to be instructed ~~as applicable to~~ in the academic areas they are providing support in. (3-15-22)()

b. Individuals who do not meet these requirements will be considered school or classroom aides. (3-15-22)

c. Duties of a paraprofessional include, but are not limited to, one-on-one tutoring; assisting in classroom management; assisting in computer instruction; conducting parent involvement activities; providing instructional support in a library or media center; acting as a translator in instructional matters; and providing instructional support services. Non-instructional duties such as providing technical support for computers, personal care services, and clerical duties are generally performed by classroom or school aides, however, this does not preclude paraprofessionals from also assisting in these non-instructional areas. (3-15-22)

11. Pedagogy. Teaching knowledge and skills. (3-15-22)

12. Portfolio. An organized collection of artifacts that demonstrates an individual's performance, growth, and/or reflection regarding their professional practice, in alignment with the applicable professional standards used for evaluation. (3-15-22)

13. Practicum. Full-time or part-time supervised, industry-based experience in an area of intended career technical education teaching field to extend understanding of industry standards, career development opportunities, and application of technical skills. (3-15-22)

14. Semester Credit Hours. Two (2) semester credit hours are equivalent to three (3) quarter credit hours. (3-15-22)

15. Student Learning Objective (SLO). A measurable, long-term academic growth target that a teacher sets at the beginning of the year for all student or for subgroups of students. SLOs demonstrate a teacher's impact on student learning within a given interval of instruction based upon baseline data gathered at the beginning of the course. (3-15-22)

16. Student Teaching. Extensive, substantive, and supervised clinical practice in Pre-K-12 schools for

candidates preparing ~~to teach~~ for an instructional certificate. (3-15-22)()

~~17. **Teacher Leader.** A teacher who facilitates the design and implementation of sustained, intensive, and job-embedded professional learning based on identified student and teacher needs.~~ (3-15-22)

~~17.~~ **Teacher of Record.** The teacher who is primarily responsible for planning instruction, delivering or supervising the instruction provided to a class of students, assessing student performance, and designating final grades. (3-15-22)()

(BREAK IN CONTINUITY OF SECTIONS)

013. CERTIFICATION OF TEACHERS TRAINED IN FOREIGN INSTITUTIONS.

An educator having graduated from a foreign institution educator preparation program shall be ~~considered~~ treated as an out of state applicant for certification purposes and may be issued a nonrenewable, three (3) year interim certificate. The applicant must provide transcripts and/or credentials that have been translated and evaluated by an approved evaluation service. (3-15-22)()

014. CERTIFICATES ISSUED TO APPLICANTS FROM REGIONALLY ACCREDITED INSTITUTIONS.

Idaho certificates may be issued to applicants completing accredited educator preparation programs from regionally accredited institutions recognized by the state board of education meeting requirements for certification or equivalent in other states when they substantially meet the requirements for a standard Idaho educator certificate. (3-15-22)()

015. IDAHO EDUCATOR CREDENTIAL.

All standard educator certificates are valid for five (5) years and are renewable, subject to the applicable renewal requirements set by the state board of education and any applicable conditions applied to an individual's certificate by the professional standards commission. (3-15-22)

01. Standard Instructional Certificate. A Standard Instructional Certificate makes an individual eligible to teach all grades, subject to the grade ranges and subject areas of the valid endorsement(s) attached to the certificate. A standard instructional certificate may be issued to any person who has a baccalaureate degree or higher from an accredited college or university and who meets the following requirements or successfully completed an interim certificate: (3-15-22)()

a. Minimum Credit Hours. Earned a minimum of twenty (20) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho comprehensive literacy plan; and (3-15-22)

b. Student Teaching. Complete a minimum of ten (10) undergraduate or six (6) graduate semester credit hours, of student teaching; and (3-15-22)

c. Complete a state board approved educator preparation program and receive an institutional recommendation from the program specifying the grade ranges and subjects for which the applicant is eligible to receive an endorsement ~~in~~; (3-15-22)()

i. To receive endorsement in two (2) fields of teaching, preparation must consist of completion of at least thirty (30) semester credit hours in one (1) field of teaching, and completion of at least twenty (20) semester credit hours, in a second field of teaching. (3-15-22)

ii. To receive endorsement in (1) field of teaching, preparation must consist of completion of at least forty-five (45) semester credit hours in a single subject area; (3-15-22)

d. Meet or exceed ~~ed~~ the state qualifying score on the state board approved content area and pedagogy

assessments.

~~(3-15-22)~~()

02. Standard Pupil Service Staff Certificate. Persons who serve as school counselors, school psychologists, school social workers, and school nurses are required to hold the Standard Pupil Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as a speech-language pathologist, school audiologist, occupational therapist, or physical therapist may be required, as determined by the local educational agency, to hold ~~the~~ **a** Pupil Service Staff Certificate with respective endorsements for which they qualify.

~~(3-15-22)~~()

a. School Counselor Endorsement. To be eligible for a School Counselor endorsement, a candidate must have satisfied the following requirements. (3-15-22)

i. Hold a master's degree and provide verification of completion of an approved program of graduate study in school counseling, including sixty (60) semester credits, from a college or university approved by the Idaho State Board of Education or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, seventy-five percent (75%) of which must be in a K-12 school setting. This K-12 experience must be in each of the following levels: elementary, middle/junior high, and high school. Previous school counseling experience may be considered to help offset the field experience clock hour requirement; and (3-15-22)

ii. An institutional recommendation is required for a School Counselor endorsement. (3-15-22)

b. School Counselor – Basic Endorsement. (3-15-22)

i. Individuals serving as a school counselor pursuant to Section 33-1212, Idaho Code, shall be granted a School Counselor – Basic endorsement. The endorsement is valid for five (5) years or until such time as the holder no longer meets the eligibility requirements pursuant to Section 33-1212, Idaho Code. (3-15-22)

ii. Individuals who received their endorsement pursuant to Section 33-1212, Idaho Code, prior to July 1, 2018, will be transitioned into the School Counselor – Basic endorsement. Renewal date will remain the same as the initial credential. (3-15-22)

c. School Psychologist Endorsement. The renewal credit requirement may be waived if the applicant holds a current and valid National Certification for School Psychologists (NCSP) offered through the National Association of School Psychologists (NASP). To be eligible for a school psychologist endorsement, a candidate must complete a minimum of sixty (60) graduate semester credit hours which must be accomplished through one (1) of the following options: (3-15-22)

i. Completion of an approved thirty (30) semester credit hour master's degree in education or psychology and completion of an approved thirty (30) semester credit hour School Psychology Specialist Degree program, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-15-22)

ii. Completion of an approved sixty (60) semester credit hour, master's degree program in School Psychology, and completion of a minimum of twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; (3-15-22)

iii. Completion of an approved sixty (60) semester credit hour, School Psychology Specialist degree program which did not require a master's degree as a prerequisite, with laboratory experience in a classroom, which may include professional teaching experience, student teaching or special education practicum, and completion of a minimum twelve hundred (1,200) clock-hour internship within a local education agency under the supervision of the training institution and direct supervision of a certificated school psychologist; and (3-15-22)

iv. Earn a current and valid National Certification for School Psychologists (NCSP) issued by the National Association of School Psychologists (NASP). (3-15-22)

d. Interim Certificate – School Psychologist Endorsement. This certificate will be issued to those who do not meet the educational requirements but hold a master’s degree or higher in psychology and are working toward a standard pupil service staff certificate with school psychologist endorsement. This certificate will be issued for three (3) years while the applicant is meeting the educational requirements or obtaining the applicable experience leading to certification. If the educational requirements cannot be met within the three (3)-year time frame of the certificate, the employing LEA may request one (1)-time renewal of this interim certificate for the applicant. (3-15-22)

e. School Nurse Endorsement. To be eligible for a school nurse endorsement, a candidate must complete one (1) of the following options: (3-15-22)

i. Possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing, and a baccalaureate degree in nursing, education, or a health-related field from an accredited institution. (3-15-22)

ii. Possess a valid professional nursing (RN) license issued by the Idaho State Board of Nursing; have two (2) years of full-time (or part-time equivalent) school nursing, community health nursing, or any other area of pediatric, adolescent, or family nursing experience. (3-15-22)

f. Interim Certificate - School Nurse Endorsement. This certificate will be issued to those who do not meet the educational and/or experience requirements but who hold a valid professional nursing (RN) license in Idaho. This non-renewable certificate will be issued for three (3) years while the applicant is meeting the educational or experience requirements. (3-15-22)

g. Speech-Language Pathologist Endorsement. To be eligible for a speech-language pathologist endorsement, a candidate must possess a master's degree from an accredited college or university in a speech/language pathology program approved by the State Board of Education. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Speech-Language Pathology offered through the American Speech-Language-Hearing Association and/or a current and valid speech-language pathologist license issued by the appropriate Idaho state licensing board. (3-15-22)

h. Interim Certificate - Speech-Language Pathologist Endorsement. This certificate will be issued to those who do not meet the educational requirements but hold a baccalaureate degree in speech-language pathology and are pursuing a master’s degree. This certificate will be issued for three (3) years while the applicant is meeting the educational requirements. If the educational requirements cannot be met within the three (3)-year timeframe of the certificate, the employing LEA may request one (1)-time renewal of this interim certificate for the applicant if the applicant holds a valid occupational license or is supervised by a speech-language pathologist with a standard pupil service certificate. (3-15-22)

i. Audiology Endorsement. To be eligible for an audiology endorsement, a candidate must possess a master's degree from an accredited college or university in an audiology program approved by the State Board of Education. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Audiology offered through the American Speech-Language-Hearing Association and/or a current and valid audiologist license issued by the appropriate Idaho state licensing board. (3-15-22)

j. School Social Worker Endorsement. To be eligible for a school social worker endorsement, a candidate must meet the following requirements: (3-15-22)

i. A master's degree in social work (MSW) from a postsecondary institution accredited by an organization recognized by the State Board of Education. The program must be currently approved by the state educational agency of the state in which the program was completed; and (3-15-22)

ii. An institutional recommendation from a state board approved program; and (3-15-22)

iii. The successful completion of a school social work practicum in a preschool through grade twelve 12 (Pre-K-12) setting. Post-LMSW extensive experience working with children and families may be substituted for the completion of a school social work practicum in a Pre-K-12 setting; and (3-15-22)

iv. A current and valid social work license pursuant to chapter 32, title 54, Idaho Code, and the rules of the State Board of Social Work Examiners. (3-15-22)

k. Occupational Therapist Endorsement. To be eligible for an occupational therapist endorsement, a candidate must have a current and valid occupational therapy license issued by the Occupational Therapy Licensure Board of Idaho. The candidate must maintain current and valid occupational therapy licensure for the endorsement to remain valid. (3-15-22)

l. Physical Therapist Endorsement. To be eligible for a physical therapist endorsement a candidate must have a current and valid physical therapy license issued by the Idaho Physical Therapy Licensure Board. The candidate must maintain current and valid physical therapy licensure for the endorsement to remain valid. (3-15-22)

03. Standard Administrator Certificate. Persons who serve as superintendent, director of special education, secondary school principal, or principal of an elementary school with eight (8) or more teachers (including the principal), or are assigned to conduct the summative evaluation of certified staff are required to hold an Administrator Certificate. The certificate may be endorsed for service as school principal, superintendent, or director of special education. Assistant superintendents are required to hold the Superintendent endorsement. Assistant principals or vice-principals are required to hold the School Principal endorsement. Directors of special education are required to hold the Director of Special Education endorsement. Possession of an Administrator Certificate does not entitle the holder to serve as a teacher at a grade level for which the educator is not qualified or certificated. (3-15-22)

a. School Principal Endorsement. To be eligible for the School Principal endorsement, a candidate must meet the following requirements: (3-15-22)

i. Hold a master's degree from an accredited college or university. (3-15-22)

ii. Have four (4) years of full-time certificated experience working with students, while under contract in an accredited school setting. (3-15-22)

iii. Complete an administrative internship in a state-approved program, or have one (1) year of experience as an administrator. (3-15-22)

iv. Provide verification of completion of a state-approved program of at least thirty (30) semester credit hours of graduate study in school administration for the preparation of school principals at an accredited college or university. This program shall include the demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and competencies in the Idaho Standards for School Principals. (3-15-22)

v. Receive an institutional recommendation for a School Principal endorsement. (3-15-22)

b. Superintendent Endorsement. To be eligible for the Superintendent endorsement, a candidate must meet the following requirements: (3-15-22)

i. Hold an education specialist or doctorate degree or complete a comparable post-master's sixth year program at an accredited college or university. (3-15-22)

ii. Have four (4) years of full-time certificated/licensed experience working with students while under contract in an accredited school setting. (3-15-22)

iii. Complete an administrative internship in a state board approved program for the superintendent endorsement or have one (1) year of out-of-state experience as an assistant superintendent or superintendent. (3-15-22)

iv. Provide verification of completion of an approved program of at least thirty (30) semester credit hours, of post-master's degree graduate study for the preparation of school superintendents at an accredited college or university. This program in school administration must include demonstration of proficiency in conducting

instructional and pupil service staff evaluations based on the statewide framework for evaluation, and demonstration of competencies in the Idaho standards for superintendents and the Idaho Standards for School Principals. (3-15-22)

- v. Receive an institutional recommendation for a Superintendent endorsement. (3-15-22)
- c. Director of Special Education Endorsement. To be eligible for the Director of Special Education endorsement, a candidate must meet the following requirements: (3-15-22)
 - i. Hold a master's degree from an accredited college or university; (3-15-22)
 - ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting; (3-15-22)
 - iii. Provide verification of a state board approved program of graduate study of school administration for the preparation of directors of special education at an accredited college or university. This program shall include demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and demonstration of competencies in the Idaho Standards for Directors of Special Education and the Idaho Standards for School Principals. Coursework shall include knowledge and competence in understanding the Individuals with Disabilities Education Act, utilizing the Idaho Special Education Manual, special education funding and fiscal accountability, results-driven leadership and accountability in special education, and instructional, behavioral, and management strategies for supporting students in the least restrictive environment. (3-15-22)
 - iv. Have completed an administrative internship in the area of administration of special education; and (3-15-22)
 - v. An institutional recommendation is required for Director of Special Education endorsement. (3-15-22)

04. Career Technical Certification Requirements. Teachers of career technical courses or programs in secondary schools must hold an occupational specialist certificate and an endorsement in an appropriate occupational discipline. All occupational certificates must be approved by the Division of Career Technical Education regardless of the route an individual is pursuing to receive the certificate. (3-15-22)

- a. Standard Degree Based Career Technical Certificate. Persons who hold a degree based career technical certificate are eligible to teach in a career technical area, subject to the grade range(s) and subject area(s) of the valid endorsement(s) attached to the certificate. All degree based career technical certificates require candidates to meet the Idaho Core Teaching Standards. The degree based career technical certificate is valid for five years. A degree based career technical certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and meets the following requirements: (3-15-22)
 - i. Earned a minimum of twenty (20) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho Comprehensive Literacy Plan; (3-15-22)
 - ii. Earned a minimum of twelve (12) semester credit hours in career technical education foundation coursework to include principles and philosophies of career technical education, evaluation and assessment in career technical education, leadership and career technical student organization leadership, career guidance and transition, occupational analysis and curriculum development, and lab safety; (3-15-22)
 - iii. Accumulated one thousand (1,000) clock hours of related industry experience, or practicum as approved by the higher education institution, in the respective field of specialization; (3-15-22)
 - iv. Completed a total of at least ten (10) undergraduate semester credit hours or six (6) graduate semester credit hours of student teaching; (3-15-22)
 - v. Completed a state board approved educator preparation program and received an institutional

recommendation specifying the grade ranges and subjects for which the person is eligible to receive an endorsement; (3-15-22)

(1) To receive endorsement in two (2) fields of teaching, preparation must consist of at least thirty (30) semester credit hours in one (1) field of teaching and completion of at least twenty (20) semester credit hours in a second field of teaching. (3-15-22)

(2) To receive endorsement in one (1) field of teaching, preparation must consist of completion of at least forty-five (45) semester credit hours in a single subject area. (3-15-22)

vi. Met or exceeded the state qualifying score on the state board-approved content area and pedagogy assessments. (3-15-22)

vii. Six (6) semester credit hours are required every five (5) years to renew. The renewal credit may be waived if the applicant holds a current, valid certificate from the National Board for Professional Teaching Standards at the time of renewal. Credits must be earned during the validity period of the certificate. (3-15-22)

b. Career Technical Education Program Administrator Certificate. The career technical education program administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the career technical education program administrator certificate. The certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. (3-15-22)

(1). Qualify for or hold an advanced occupational specialist certificate or hold an occupational endorsement on a degree based career technical certificate; provide evidence of a minimum of four (4) years teaching, three (3) of which must be in a career technical education discipline; hold a master's degree; and complete at least fifteen (15) semester credits of administrative course work to include required credits in. education finance, administration and supervision of personnel, and legal aspects of education. Remaining coursework may be selected from: administration and supervision of occupational programs; instructional supervision; administration internship; curriculum development; curriculum evaluation; research in curriculum; school community relations; communication; teaching the adult learner; coordination of work-based learning programs; and/or measurement and evaluation. (3-15-22)

(2) Hold a superintendent or principal endorsement on a standard administrator certificate and provide evidence of ~~either~~ a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline; ~~or successfully complete~~ on the of a Division of Career Technical Education ~~twenty-seven (27) month Idaho~~ career technical education leadership institute; ~~or completion of course work including credits in: principles and foundations of career technical education, career technical student organizations, occupational analysis, curriculum design, one or more externships with career technical education industry advisor partners totaling 100 hours, and ongoing participation in technical advisory committee meetings associated with the school's career technical education programs.~~ (3-15-22)()

c. Industry-Based Occupational Specialist Certificate. Persons who hold an occupational specialist career technical certificate are eligible to teach in a career technical program pathway(s), subject to the grade range(s) and pathway areas(s) of the valid endorsement(s) attached to the certificate. All occupational specialist career technical certificates require candidates to meet the core teaching standards of the Idaho Standards for Initial Certification of Professional School Personnel. An occupational specialist career technical certificate may be issued to an experienced industry expert entering the teaching profession and meeting the following eligibility requirements: (3-15-22)

i. Possess either a high school diploma or General Educational Development (GED) certificate; meet provisions of Idaho Code; and, verify technical skills through work experience, industry certification or testing as listed below. When applicable, requirements of occupationally related state agencies must also be met. Since educational levels and work experiences vary, applicants may be determined qualified under any one (1) of the

following three (3) options: (3-15-22)

(1) Have three (3) years or six thousand (6,000) hours of recent, gainful employment in the occupation for which certification is requested, at least half of which must have been during the immediate previous five (5) years; or (3-15-22)

(2) Have a baccalaureate degree in the specific occupation or related area, plus one (1) year or two thousand (2,000) hours of recent, gainful employment in the occupation for which certification is requested, at least half of which must have been during the immediate previous five (5) years; or (3-15-22)

(3) Hold or have held an industry certification in a field closely related to the content area in which the individual seeks to teach as approved by the Division of Career Technical Education. (3-15-22)

i. Limited Occupational Specialist Certificate. This certificate is issued to individuals who are new to teaching in Idaho public schools or new to teaching in career technical education in Idaho public schools. The certificate is an interim certificate and is valid for three (3) years and is non-renewable. Applicants must meet all of the minimum requirements established in Subsection 015.06.a. of these rules. Individuals on a limited occupational specialist certificate must complete one (1) of the two (2) following pathways during the validity period of the certificate: (3-15-22)

(1) Pathway I - Coursework: Within the three-year period of the Limited Occupational Specialist Certificate, the instructor must satisfactorily complete the pre-service training prescribed by the Division of Career Technical Education and demonstrate competencies in principles/foundations of occupational education and methods of teaching occupational education. Additionally, the instructor must satisfactorily demonstrate competencies in two (2) of the following areas: career pathways and guidance; analysis, integration, and curriculum development; and measurement and evaluation. (3-15-22)

(2) Pathway II – Cohort Training: Within the first twelve (12) months, the holder must enroll in the Division of Career Technical Education sponsored education pedagogy training and complete all requirements within the three-year validity period of the interim certificate. (3-15-22)

ii. Standard Occupational Specialist Certificate. (3-15-22)

(1) This certificate is issued to individuals who have held a limited occupational specialist certificate and completed one (1) of the pathways for renewable certification. (3-15-22)

(2) The Standard Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. Credit equivalency will be based on verification of forty-five (45) hours of participation at approved technical conferences, institutes, or workshops where participation is prorated at the rate of fifteen (15) hours per credit; or one hundred twenty (120) hours of approved related work experience where hours worked may be prorated at the rate of forty (4) hours per credit; or any equivalent combination thereof. (3-15-22)

iii. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who are eligible for the Standard Occupational Specialist Certificate; and provide evidence of completion of a teacher training degree program or eighteen (18) semester credits of Division of Career Technical Education approved education or content-related course work in addition to the twelve (12) semester credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits. The Advanced Occupational Specialist Certificate is valid for five (5) years. Six (6) semester credit hours are required every five (5) years pursuant to Section 060 of these rules to renew. (3-15-22)

05. Postsecondary Specialist Certificate. A Postsecondary Specialist certificate will be granted to a current academic faculty member whose primary employment is with any accredited Idaho postsecondary institution. To be eligible to teach in the public schools under this postsecondary specialist certificate, the candidate must supply a recommendation from the employing institution (faculty's college dean). The primary use of this state-issued certificate is for distance education, virtual classroom programs, and public and postsecondary partnerships.

(3-15-22)

- a. To renew this certificate, the renewal application must be accompanied with a new written recommendation from the postsecondary institution (faculty's college dean level or higher). (3-15-22)
- b. The candidate must meet the following qualifications: (3-15-22)
 - i. Hold a baccalaureate degree or higher in the content area being taught; (3-15-22)
 - ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-15-22)
 - iii. Complete and pass a criminal history background check as required by Section 33-130, Idaho Code. (3-15-22)

06. American Indian Tribal Language Certificate. The five (5) federally recognized tribes of Idaho shall provide to the State Department of Education the names of those highly and uniquely qualified individuals who have been designated to teach tribal language(s) in accordance with Section 33-1280, Idaho Code. To be eligible for an American Indian Tribal Languages certificate an applicant designated to teach tribal language(s) shall submit a complete application. If approved the certificate shall be issued for five years and is renewable. (3-15-22)

07. Junior Reserved Officer Training Corps (Junior ROTC) Instructors. (3-15-22)

- a. To be eligible for a Junior ROTC Instructor certificate, an applicant shall submit a complete application and provide a copy of their certificate(s) or letter of completion of an armed forces Junior ROTC training program. (3-15-22)
- b. If approved the certificate shall be issued for five years and is renewable. (3-15-22)

08. Additional Renewal Requirements. In addition to specific certificate or endorsement renewal requirements, applicants must meet the following renewal requirements as applicable: (3-15-22)

- a. Administrator certificate renewal. In order to recertify, holders of an administrator certificate must complete a course consisting of a minimum of three (3) semester credits in the Idaho framework for teachers' evaluation pursuant to Section 33-1204, Idaho Code. Credits must be earned through an approved educator preparation program and include a laboratory component. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. The approved course must include the following competencies: (3-15-22)
 - i. Understanding professional practice in Idaho evaluation requirements, including gathering accurate evidence and artifacts, understanding and using the state framework for evaluation rubric with fidelity, proof of calibration and interrater reliability, ability to provide effective feedback for teacher growth, and understanding and advising teachers on individualized learning plan and portfolio development. (3-15-22)
 - ii. Understanding student achievement and growth in the Idaho evaluation framework, including understanding how measurable student achievement and growth measures impact summative evaluation ratings and proficiency in assessment literacy. (3-15-22)

016. IDAHO INTERIM CERTIFICATE.

A three (3) year interim certificate may be issued to applicants who hold a valid certificate or license from another state or other entity that participates in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Agreement pursuant to Section 33-4104, Idaho Code, or who are engaged in or completed a non-traditional route or alternative authorization to ~~teacher~~ certification as prescribed herein. An interim certificate gives the holder the same rights and responsibilities as an individual with a standard certificate.

~~(3-15-22)~~ ()

01. Interim Certificate Not Renewable. Interim certification is only available on a one (1) time basis

except under extenuating circumstances approved by the State Department of Education or Division of Career Technical Education. An applicant must meet the requirements of the applicable alternate authorization route or non-traditional route to obtain a standard Idaho Educator Credential during the term of the interim certificate. (3-15-22)

02. Non-Traditional Route to Teacher Certification. An individual may acquire interim certification through a state board approved non-traditional route to teacher certification program. The non-traditional route may be used for first-time certification, subsequent certificates, and additional endorsements. (3-15-22)

a. Individuals who possess a baccalaureate degree or higher from an institution of higher education accredited by an entity recognized by the state board of education may receive an interim instructional certificate. To receive the interim certificate, the individual must: (3-15-22)

i. Complete or enroll in a state board approved program; and (3-15-22)

ii. Pass the state board approved pedagogy and content area assessment. (3-15-22)

b. Standard certification. Upon completion of the non-traditional route the applicant must complete a two (2) year state board approved teacher mentoring program and receive two (2) years of ~~successful~~ Idaho evaluations pursuant to Section 33-1001, Idaho Code with a summative rating of proficient or better. (3-15-22)()

03. Idaho Comprehensive Literacy Course. All Idaho teachers working on an interim certificate (alternate authorizations, nontraditional routes, reinstatement, or coming from out of state), must complete a state board approved Idaho Comprehensive Literacy course or assessment as a one-time requirement for standard instructional certificate. (3-15-22)

04. Teaching For Mathematical Thinking. All Idaho teachers or administrators working on an interim certificates (alternate authorizations, nontraditional routes, reinstatements or coming from out of state), with an All Subjects (K-8) endorsement, any mathematics endorsement, Exceptional Child Education endorsement, Blended Early Childhood/Early Childhood Special Education endorsement, or Administrator certificate must complete the state board approved Teaching for Mathematical Thinking, course, as a one-time requirement for full certification. (3-15-22)

05. Reinstatement of Expired Certificate. An individual holding an expired Idaho certificate may be issued an interim certificate. During the validity period of the interim certificate, the applicant must meet the following requirements to obtain standard certification during the term of the interim certificate: (3-15-22)

a. Two (2) years of ~~successful~~ Idaho evaluations as per Section 33-1001, Idaho Code. as applicable to the type of certification, with a summative rating of proficient or better; (3-15-22)()

b. Measured annual progress on specific goals identified on the applicant's Individualized Professional Learning Plan; (3-15-22)

c. Completion of six (6) credit renewal requirement; and (3-15-22)()

d. Completion of the Idaho Comprehensive Literacy Course or Teaching for Mathematical Thinking as provided herein. (3-15-22)

e. Individuals holding an expired certificate that was in good standing at the time the certificate expired and have a current summative evaluation, may have the certificate reinstated within one (1) year of the time the certificate expired by completing any outstanding professional development requirements. ()

06. Codes of Ethics. All laws and rules governing standard certificated staff with respect to conduct, discipline, and professional standards shall apply to all certified staff serving in an Idaho public school, including those employed under an interim certificate. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

021. ENDORSEMENTS.

Holders of an Instructional Certificate or Occupational Specialist Certificate must have one (1) or more endorsements attached to their certificate and as applicable to the type of certification. Instructional staff are eligible to teach in the grades and content areas of their endorsements. Idaho preparation programs shall prepare candidates for endorsements in accordance with the Idaho Standards for Initial Certification of Professional School Personnel. An official statement from the college of education of competency in a content area or field is acceptable in lieu of required credits if such statements are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. Statements must include the number of credits the competency evaluation is equivalent to. To add an endorsement to an existing certificate, an individual shall complete the credit hour requirements as established by the state board of education and meet or exceed the state qualifying score on a state approved content, pedagogy and performance assessments. (3-15-22)

01. Clinical Experience Requirement. All endorsements require supervised clinical experience in the relevant content area, or a State Department of Education or Division of Career Technical Education approved alternative clinical experience as applicable to the area of endorsement. (3-15-22)

02. Alternative Authorization - Teacher to New Endorsement. This alternative authorization allows a local education agency to request additional endorsement for a candidate. This authorization is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress. The candidate shall provide evidence of pursuing one of the following options: (3-15-22)

a. Option I -- An official statement of competency in a teaching area or field from the college of education of an accredited college or university is acceptable in lieu of courses if the statement is created in consultation with the department or division in which the competency is established and is approved by the director of teacher education of the recommending college or university. (3-15-22)

b. Option II -- Master's degree or higher. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid instructional certificate. Successful completion of a one (1) year, state board approved mentoring program is required to maintain the endorsement after the first year. (3-15-22)

c. Option III -- Content area assessment and mentoring. A candidate may add an endorsement by successfully completing a state board-approved content areas assessment and a one-year, state board-approved mentoring program within the first year of authorization. (3-15-22)

d. For all candidates moving to an initial certification in a career technical education endorsement area, the candidate will be required to complete or have completed coursework in principles and foundations of career technical education and career technical student organizations, training in occupational analysis and curriculum design, and a minimum of two hundred (200) internship/externship hours in career technical education endorsement area. ()

03. National Board Certification. An applicant holding an instructional certificate and current national board certification may add an endorsement in a corresponding content-specific area. (3-15-22)

022. -- 027. (RESERVED)

028. PROFESSIONAL ENDORSEMENTS.

The professional endorsement is required for movement onto and across the professional compensation rung of the career ladder and the advanced professional endorsement is required for movement onto and across the advanced professional rung of the career ladder. Eligibility for the professional and advanced professional endorsement pursuant to Section 33-1201A, Idaho Code, may be established by providing additional evidence demonstrating effective teaching for the purpose of determining proficiency and student achievement in the event required standards for the professional endorsement are not met. (3-15-22)()

01. Measurable Student Achievement and Student Success Indicators. Evidence of a majority of the applicable staff person's students meeting measurable student achievement targets, or student success indicator targets, may be demonstrated by the certificated staff member providing evidence that students from an accredited private or out-of-state public school have met targets set by the certificated staff member. The measurable student achievement or student success indicators must be comparable to the measurable student achievement or student success indicator targets established by the hiring school for certificated staff in similar employment areas and similar grade ranges pursuant to Section 33-1001, Idaho Code. (3-15-22)

02. Validity of Evidence. Evidence provided must show that the certificated staff member met each of the proficiency and student achievement requirements in each year required. (3-15-22)

03. Evaluation of Evidence. The local education agency administrator shall be responsible for evaluating the evidence provided and determining alignment with the school district or charter schools measurable student achievement and student success indicators and alignment with the Idaho framework for teaching evaluation standards. The reviewing administrator shall sign an affidavit stating the evidence meets the district and state standards for measurable student achievement and student success indicators and performance criteria. The local education agency shall report the equivalent performance criteria rating the certificated staff member received and indicate if any equivalent components were rated as unsatisfactory and the measurable student achievement or student success indicator used with verification that the majority of their students have met the measurable student achievement targets or student success indicators. Targets must be comparable to targets set for like groups of students at the hiring school. The state board of education or state department of education may request to review the evidence provided for determining proficiency and student achievement. (3-15-22)

029. -- 041. (RESERVED)

042. ALTERNATIVE AUTHORIZATION.

Alternative authorization allows a local education agency *with an area of need* to request certification for a candidate. This authorization grants an interim certificate that allows individuals to serve as the teacher of record while pursuing standard certification. Evidence of satisfactory progress toward standard certification must be provided each year. Individuals who hold a current instructional certificate may obtain additional endorsements through an alternative authorization – teacher to new endorsement as prescribed in Subsection 021 of these rules. (3-15-22)()

01. Alternative Authorization -- Teacher ~~To~~ New Certification. This alternative authorization allows a local education agency to request additional certification for a candidate who already holds a current *and valid* Idaho certificate *in good standing to add an additional type of certificate* in a new certification area. (3-15-22)()

a. Prior to application, the candidate must hold a baccalaureate degree or higher and a current and valid Idaho certificate. The local education agency must attest to the candidate's ability to fill the position. (3-15-22)

b. The candidate must participate in a state board- approved educator preparation program. (3-15-22)

i. The candidate will work toward completion of a state board-approved educator preparation program. The candidate must complete a minimum of nine (9) semester credits annually to maintain eligibility for renewal; and (3-15-22)

ii. The participating educator preparation program shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-15-22)

02. Alternative Authorization -- Content Specialist. This alternative authorization allows a local education agency to request an instructional certificate for an individual who possesses distinct content knowledge and skills to teach in a content area. (3-15-22)

a. Initial Qualifications. (3-15-22)

i. A candidate must hold a baccalaureate degree or have completed all of the requirements of a baccalaureate degree except the student teaching portion; and (3-15-22)

ii. Prior to entering the classroom, the local education agency shall ensure the candidate is qualified to teach in the content area. The candidate shall meet or exceed the state qualifying score on the appropriate state board-approved content or pedagogy assessment, including demonstration of content knowledge through a combination of employment, experience, and education. (3-15-22)

b. State Board Approved Educator Preparation Program. (3-15-22)

i. Prior to authorization, a consortium comprised of a state board-approved educator preparation program representative, a local education agency representative, and the candidate shall determine the preparation needed and develop a plan to meet the Idaho Standards for Initial Certification of Professional School Personnel. The educator preparation program shall provide procedures to assess and credit: equivalent knowledge, dispositions, and relevant life or work experiences. The plan must include a state board-approved mentoring program. While teaching under the alternative authorization, the mentor shall provide a minimum of one (1) classroom observation per month, which will include feedback and reflection. The plan must include annual progress goals that must be met for annual renewal; (3-15-22)

ii. The candidate must complete a minimum of nine (9) semester credit hours or its equivalent of accelerated study in education pedagogy prior to the end of the first year of authorization. The number of required credits will be specified in the consortium developed plan; and (3-15-22)

iii. At the time of authorization the candidate must enroll in and work toward completion of the plan. The candidate must complete a minimum of nine (9) semester credits or equivalent annually to maintain eligibility for renewal. The candidate must complete the plan to receive a certificate of completion. (3-15-22)

c. Career Technical Education Industry-based Route Plan. Local education agencies with candidates seeking a limited occupational specialist certification may request approval, with an approved division of career technical education alternative authorization route plan, to meet the program of study requirements. ()

03. Alternative Authorization - Pupil Service Staff. This alternative authorization allows a local education agency to request certification and endorsement for a candidate when a position requiring the Pupil Service Staff Certificate cannot be filled. (3-15-22)

a. Initial Qualifications. The applicant must complete the following: (3-15-22)

i. Prior to application, a candidate must hold a baccalaureate degree or higher; and (3-15-22)

ii. The local education agency must attest to the ability of the candidate to fill the position. (3-15-22)

b. Educator Preparation Program. (3-15-22)

i. At the time of authorization the candidate must enroll in and work toward completion of a state board approved educator preparation program through a participating college/university and the local education agency. The educator preparation program must include annual progress goals. (3-15-22)

ii. The candidate must complete a minimum of nine (9) semester credits or equivalent annually to maintain eligibility for renewal. (3-15-22)

iii. The participating educator preparation program will provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences. (3-15-22)

iv. The candidate must meet all requirements for the endorsement/certificate as provided herein. (3-15-22)

04. Alternative Authorization Renewal. Annual continuation will be based on the school year and satisfactory progress toward completion of the applicable alternate authorization requirements. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

077. DEFINITIONS FOR USE WITH THE CODE OF ETHICS FOR IDAHO PROFESSIONAL EDUCATORS (SECTIONS 33-1208 AND 33-1209, IDAHO CODE).

01. **Administrative Complaint.** A document outlining the specific, purported violations of Section 33-1208, Idaho Code, or the Code of Ethics for Idaho Professional Educators. (3-15-22)

~~02.~~ ~~*Allegation. A purported violation of the Code of Ethics for Idaho Professional Educators or Idaho Code.*~~ (3-15-22)

~~03.~~ ~~*Certificate Denial. The refusal of the state to grant a certificate.*~~ (3-15-22)

~~04.~~ ~~*Certificate Suspension. A time-certain invalidation of any Idaho certificate.*~~ (3-15-22)

~~05.~~ ~~*Conditioned Certificate. Stated Certificate conditions as determined by the Professional Standards Commission (Section 33-1209(02), Idaho Code).*~~ (3-15-22)

062. **Educator.** A person who held, holds, or applies for an Idaho Certificate (Section 33-1201, Idaho Code). (3-15-22)

~~073.~~ **Education Official.** An individual identified by local school board policy, including, but not limited to, a superintendent, principal, assistant principal, or school resource officer (SRO). (3-15-22)

084. **Executive Committee.** A decision-making body comprised of members of the Professional Standards Commission, including the chair and/or vice-chair of the Commission. A prime duty of the Committee is to review alleged violations of the Code of Ethics for Idaho Professional Educators to determine probable cause and recommend possible disciplinary action. (3-15-22)

~~095.~~ **Hearing.** A formal review proceeding that ensures the respondent due process. The request for a hearing is initiated by the respondent and is conducted by a panel of peers. (3-15-22)

~~106.~~ **Hearing Panel.** A minimum of three (3) educators appointed by the chair of the Professional Standards Commission and charged with the responsibility to make a final determination regarding the charges specifically defined in the Administrative Complaint. (3-15-22)

~~107.~~ **Investigation.** The process of gathering factual information concerning a valid, written complaint in preparation for review by the Professional Standards Commission Executive Committee, or following review by the Executive Committee at the request of the deputy attorney general assigned to the Professional Standards Commission. (3-15-22)

~~108.~~ **No Probable Cause.** A determination by the Executive Committee that there is not sufficient evidence to take action against an educator's certificate. (3-15-22)

~~109.~~ **Principles.** Guiding behaviors that reflect what is expected of professional educators in the state of Idaho while performing duties as educators in both the private and public sectors. (3-15-22)

140. **Probable Cause.** A determination by the Executive Committee that sufficient evidence exists to issue an administrative complaint. (3-15-22)

~~15.~~ ~~*Reprimand. A written letter admonishing the Certificate holder for their conduct.*~~ (3-15-22)

161. **Respondent.** The legal term for the professional educator who is under investigation for a purported violation of the Code of Ethics for Idaho Professional Educators. (3-15-22)

~~172.~~ **Revocation.** The invalidation of any Certificate held by the educator. (3-15-22)

~~183.~~ **Stipulated Agreement.** A written agreement between the respondent and the Professional Standards Commission to resolve matters arising from an allegation of unethical conduct following a complaint or an investigation. The stipulated agreement is binding to both parties and is enforceable under its own terms. (3-15-22)

078. -- 099. (RESERVED)

100. OFFICIAL VEHICLE FOR APPROVING EDUCATOR PREPARATION PROGRAMS.

01. The Official Vehicle for the Approval of Traditional Educator Preparation Programs. Traditional educator preparation programs will be accredited by an accrediting body that approves educator preparation programs and is recognized by the state board of education and meets the board approved Idaho Standards for the Initial Certification of Professional School Personnel. The Idaho Standards for the Initial Certification of Professional School Personnel will be posted on the state board of education and state department of education websites. All standards will include an implementation date. (3-15-22)()

02. Non-Traditional Educator Preparation Program. To be considered for approval each non-traditional educator preparation program must include the following components: (3-15-22)

- a. Assessment of pedagogy and content knowledge; and (3-15-22)
- b. Alignment to the Idaho Standards for the Initial Certification of Professional School Personnel. (3-15-22)

~~03. Reference Availability. The Idaho Standards for the Initial Certification of Professional School Personnel, are available for inspection on the Office of the State Board of Education's website at www.boardofed.idaho.gov. (3-15-22)~~

~~043.~~ **Continuing Approval.** Approved educator preparation programs will be reviewed for continued approval on a timeline and in a format established by the state board of education. Program reviews will take into consideration the instructional methodology used by the approved program. (3-15-22)

~~054.~~ **Payment Responsibilities for Educator Preparation Program Reviews.** The Professional Standards Commission is responsible for Idaho educator preparation program reviews, including assigning responsibility for paying for program reviews. To implement the reviews, it is necessary that: (3-15-22)

- a. The Professional Standards Commission pay for all state review team expenses for on-site teacher preparation reviews from its budget. (3-15-22)
- b. Requesting institutions pay for all other expenses related to on-site educator preparation program reviews, including all standards review. (3-15-22)

101. -- 109. (RESERVED)

110. PERSONNEL STANDARDS.

The State Board of Education supports the efforts made by the Idaho Legislature to lower class size. ~~Significant progress has been made in grades one through three (1-3). The State Board of Education believes that class sizes in grades four through six (4-6) are too high.~~ Districts are encouraged to lower all class sizes as funds become available. Each district will develop personnel policies and procedures to implement the educational program of the district. The policies and procedures will address representation in each of the following personnel areas, as appropriate to student enrollment and the needs of each attendance area. Districts should strive to achieve ratios consistent with the following state class size ratio goals.

INSTRUCTIONAL PERSONNEL

TEACHERS	STATE GOALS
Kindergarten	20
Grades 1, 2, 3	20

TEACHERS	STATE GOALS
Grades 4, 5, 6	26
Middle School/Jr. High	160 teacher load
High School	160 teacher load
Alternative School (7-12)	18 average daily class load

Schools are encouraged to explore technological options that provide for credible alternative delivery systems. Present and emerging information transmission technology may provide for greater teacher/pupil class size ratios.

PUPIL PERSONNEL	
(Certificated School Counselors, Social Workers, Psychologists)	400:1 * student/district average
Secondary Media Generalist and Assistants	500:1 * student/district average
Elementary Media Generalist or Assistants	500:1 * student/district average
Building Administrative Personnel	Not to exceed 500:1 * district average

* The stated pupil to personnel ratio is the goal; each school district will assign personnel as appropriate to student enrollment and the needs of each attendance area.

Classroom Assistants - State Goal: will be provided where the student/teacher ratio is deemed excessive by the district or where other student special needs exist (e.g., limited English proficiency or special education).

Classified Personnel - State Goal: will be employed in each building to support the needs of the staff, students, and community. (3-15-22)()

(BREAK IN CONTINUITY OF SECTIONS)

220. RELEASE TIME PROGRAM FOR ELEMENTARY AND SECONDARY SCHOOLS.

~~In the view of the State Board of Education, p~~Public elementary and secondary school programs that permit the practice of releasing students from school for the purpose of attending classes in religious education or for other purposes ~~should observe certain practices that are in keeping with the present state of the law. These practices are designed to ensure that the public school operation is not adversely affected and that public funds and property are not used for sectarian religious instruction in a way which violates the United States Constitution, the Idaho State Constitution, or state law. These practices should~~ **must develop policies that** include the following: (3-15-22)()

01. Scheduling. The local school board will have reasonable discretion over the scheduling and timing of the release program. Release time programs may not interfere with the scheduling of classes, activities and programs of the public schools. (3-15-22)

02. Voluntary Decision. The decision of a school district to permit release time programs for kindergarten through grade eight (K-8), as well as the decision of individual students to participate, must be purely voluntary. (3-15-22)

03. Time Limit. Release time will be scheduled upon the application of a parent or guardian of a student in grades nine through twelve (9-12), not to exceed five (5) periods per week or one hundred sixty-five (165) hours during any one (1) academic school year. Students with a graduation plan that allows the student to meet the minimum state graduation requirements and graduate within four (4) years may be granted additional release time at the discretion of the local education agency. (3-15-22)()

04. Location. Release time programs will be conducted away from public school buildings and public school property. (3-15-22)

05. Request by Parent. No student will be permitted to leave the school grounds during the school day to attend release time programs except upon written request from a parent or guardian filed with the school principal. Such written request by the parent will become a part of the student's permanent record. (3-15-22)

06. Record Maintenance. The public school will not be responsible for maintaining attendance records for a student who, upon written request of a parent or guardian, is given permission to leave the school grounds to attend a release time program. The school district will maintain a record of each student's daily schedule that indicates when a student is released for classes in religious education or for other purposes. (3-15-22)

07. Liability. The school district is responsible for ensuring that no public school property, public funds or other public resources are used in any way to operate these programs. The school district is not liable for any injury, act or event occurring while the student participates in such programs. (3-15-22)

08. Course Credit. No credit will be awarded by the school or district for satisfactory completion by a student of a course or courses in release time for religious instruction. Credit may be granted for other purposes, at the discretion of the local school board. (3-15-22)

09. Separation From Public Schools. Public schools will not include schedules of classes for release time programs in school catalogs, registration forms or any other regularly printed public school material. Registration for release time programs must occur off school premises, and must be done on forms and supplies furnished by the group or institution offering the program. Teachers of release time programs are not to be considered members of any public school faculty and should not be asked to participate as faculty members in any school functions or to assume responsibilities for operation of any part of the public school program. (3-15-22)

10. Transportation Liability. Public schools and school districts will not be liable or responsible for the health, safety and welfare of students while they are being transported to and from or participating in release time programs. (3-15-22)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Article IX, Section 2 of the Idaho Constitution and under sections 33-105, 33-116, 33-118, and 33-1612, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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 accordance with [Executive Order 2020-01](#), this rulemaking is a result of a review of the chapter and evaluation of how it could be improved, simplified, and streamlined. Any provisions duplicative of statutory language have been removed. Additional proposed amendments remove the incorporated by reference assessment standards (cut scores) while retaining the requirement that they be set by the Board; adds computational thinking to the instructional requirements area for elementary and middle schools; update the graduation requirements to create more focus on financial literacy; adds a computer science graduation requirement for students entering grade 9 in the fall of 2025; updates the state and federal accountability framework to include chronic absenteeism as the school quality measure; restructures the accountability section; moves the parent and student survey to the general accountability section; provides additional clarification regarding student safety policies aligned with Idaho statute; and makes technical edits identified as part of the negotiated rulemaking process. Additional amendments update references to the English language arts, mathematics, and science content standards from the incorporated by section and replace it with a reference to the new statutory language for these standards; and update the physical education and health and social studies content standards incorporated by reference.

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

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 90](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: IDAPA 08.02.03 includes the minimum content standards for the core subject areas, and college and career competencies each public school student must learn, minimum instructional standards for student who are deaf or heard of hearing; blind or visually impaired, and the state special education manual. These minimum standards are technical documents written for the benefit our educational professionals and do not lend themselves to the required formatting of administrative rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)332-1582
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-2201
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE.

The following documents are incorporated into this rule: (3-15-22)

01. The Idaho Content Standards. The Idaho Content Standards as adopted by the State Board of Education. Individual subject content standards are adopted in various years in relation to the curricular materials adoption schedule. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

- a.** Arts and Humanities Categories: (3-15-22)
 - i.** Dance, as revised and adopted on August 11, 2016; (3-15-22)
 - ii.** Interdisciplinary Humanities, as revised and adopted on August 11, 2016; (3-15-22)
 - iii.** Media Arts, as adopted on August 11, 2016. (3-15-22)
 - iv.** Music, as revised and adopted on August 11, 2016; (3-15-22)
 - v.** Theater, as revised and adopted on August 11, 2016; (3-15-22)
 - vi.** Visual Arts, as revised and adopted on August 11, 2016; (3-15-22)
 - vii.** World languages, as revised and adopted on August 11, 2016. (3-15-22)
- b.** Computer Science, adopted on November 28, 2016. (3-15-22)
- c.** Driver Education, as revised and adopted on August 10, 2017. (3-15-22)
- d.** Health, as revised and adopted on August ~~11, 2016~~ 24, 2022. (~~3-15-22~~)()
- e.** Information and Communication Technology, as revised and adopted on August 10, 2017. (3-15-22)
- ~~**f.** Limited English Proficiency, as revised and adopted on August 21, 2008. (3-15-22)()~~
- ~~**g.** Physical Education, as revised and adopted on August ~~11, 2016~~ 24, 2022. (~~3-15-22~~)()~~
- ~~**h.** Social Studies, as revised and adopted on November 28, 2016. (3-15-22)~~
- ~~**i.** College and Career Readiness Competencies adopted on June 15, 2017. (3-15-22)~~

~~02. The English Language Development (ELD) Standards. The WIDA 2020 English Language Development (ELD) Standards statements as adopted by the State Board of Education on August 26, 2021. Copies of the document can be found at <https://wida.wise.edu>. (3-15-22)~~

~~03. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)~~

~~04. The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors. Achievement Level Descriptors as adopted by the State Board of Education on April 14, 2016. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)~~

~~05. The Idaho Content Standards Core Content Connectors. The Idaho Content Standards Core Content Connectors as adopted by the State Board of Education. Copies of the document can be found at the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)~~

~~a. English Language Arts, as adopted by the State Board of Education on August 10, 2017. (3-15-22)~~

~~b. Mathematics, as adopted by the State Board of Education on August 10, 2017. (3-15-22)~~

~~c. Science, as adopted by the State Board of Education on June 19, 2019. (3-15-22)~~

~~06. The Idaho Alternate Assessment Achievement Standards. Alternate Assessment Achievement Standards as adopted by the State Board of Education on October 18, 2017. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)~~

072. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

083. The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired. As adopted by the State Board of Education on October 11, 2007. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

094. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on October 17, 2018. Copies of the document can be found on the State Board of Education website at <https://boardofed.idaho.gov>. (3-15-22)

005. -- 006. (RESERVED)

007. DEFINITIONS.

01. Achievement Standards. Define “below basic,” “basic,” “proficient,” and “advanced” achievement levels on the Idaho Standards Achievement Tests (ISAT) and level one (1) through level six (6) on Idaho’s English language assessment by setting scale score cut points. These cut scores are set by the state board of education and paired with descriptions of how well students are mastering the material in the content standards. These descriptions are called performance level descriptors ~~or PLDs~~, and are provided by performance level, by content area, and by grade. (3-15-22)()

02. Advanced Opportunities. Placement courses, Dual Credit courses, Technical Competency Credit, or International Baccalaureate programs. (3-15-22)

03. Advanced Placement® (AP) - College Board. The Advanced Placement Program is administered by the College Board at <http://www.collegeboard.com>. AP students may take one (1) or more college level courses in a variety of subjects. AP courses are not tied to a specific college curriculum, but rather follow national College Board curricula. While taking the AP exam is optional, students can earn college credit by scoring well on the

national exams. It is up to the discretion of the receiving college to accept the scores from the AP exams to award college credit or advanced standing. (3-15-22)

04. All Students. All public school students, grades K-12. (3-15-22)

05. Assessment. The process of quantifying, describing, or gathering information about skills, knowledge or performance. (3-15-22)

06. Assessment Standards. Statements setting forth guidelines for evaluating student work, as in the “Standards for the Assessment of Reading and Writing.” (3-15-22)

07. Career Pathway Plan. The plan that outlines a student’s program of study, which should include a rigorous academic core and a related sequence of electives in academic, career technical education (CTE), or humanities aligned with the student’s post-graduation goals. (3-15-22)

08. Career Technical Education. Formal preparation for semi-skilled, skilled, technical, or paraprofessional occupations, usually below the baccalaureate level. (3-15-22)

09. College and Career Readiness. College and career readiness is the attainment and demonstration of state board adopted competencies that broadly prepare high school graduates for a successful transition into some form of postsecondary education and/or the workplace. (3-15-22)

10. Content Standards. Describe the knowledge, concepts, and skills that students are expected to acquire at each grade level in each content area. (3-15-22)

11. Criteria. Guidelines, rules or principles by which student responses, products, or performances, are judged. What is valued and expected in the student performance, when written down and used in assessment, become rubrics or scoring guides. (3-15-22)

12. Diploma. A document awarded to a student by a secondary school to show the student has successfully completed the state and local education agency graduation requirements. Diplomas may be awarded to individuals who attended a secondary school prior to the year in which the student is requesting issuance of a diploma based on the graduation requirements in existence at the time the student attended. Determination of meeting past graduation requirements may be determined based on proficiency as determined by the local education agency. Each local education agency may determine the format of the diploma, including the recognition of emphasis areas based on a student’s completion of courses or courses or studies in an emphasis area or educational pathways, including but not limited to science, technology, engineering and math (STEM), career technical education, or arts and music. (3-15-22)

13. Dual Credit. Dual credit allows high school students to simultaneously earn credit toward a high school diploma and a postsecondary degree or certificate. Postsecondary institutions work closely with high schools to deliver college courses that are identical to those offered on the college campus. Credits earned in a dual credit class become part of the student’s permanent college record. Students may enroll in dual credit programs taught at the high school or on the college campus. (3-15-22)

14. Idaho Standards Achievement Tests. Statewide assessments aligned to the state content standards and used to measure a student’s knowledge of the applicable content standards. (3-15-22)

15. International Baccalaureate (IB). Administered by the International Baccalaureate Organization, the IB program provides a comprehensive liberal arts course of study for students in their junior and senior years of high school. IB students take end-of-course exams that may qualify for college credit. Successful completion of the full course of study leads to an IB diploma. (3-15-22)

16. Laboratory. A laboratory course is defined as one in which at least one (1) class period each week is devoted to providing students with the opportunity to manipulate equipment, materials, specimens or develop skills in observation and analysis and discover, demonstrate, illustrate or test scientific principles or concepts. (3-15-22)

17. Portfolio. A collection of materials that documents and demonstrates a student’s academic and work-based learning. A portfolio typically includes many forms of information that exhibit the student’s knowledge, skills, and interests. By building a portfolio, students can recognize their own growth and learn to take increased responsibility for their education. Teachers, mentors, and employers can use portfolios for assessment purposes and to record educational outcomes. (3-15-22)

18. Project Based Learning. A hands-on approach to learning that encourages students to create/interpret/communicate an original work or project and assesses quality and success of learning through performance/presentation/production of that work or project. (3-15-22)

19. Proficiency. Having or demonstrating a high degree of knowledge or skill in a particular area. (3-15-22)

20. Standards. Statements about what is valued in a given field, such as English language arts, and/or descriptions of what is considered quality work. See content standards, assessment standards, and achievement standards. (3-15-22)

21. Technical Competency Credit. Technical competency credit is a sequenced program of study that allows secondary students to document proficiency in the skills and abilities they develop in approved high school career technical programs to be evaluated for postsecondary transcription at a later date. Technical Competency Credits are awarded for skills and competencies identified as eligible through an agreement with at least one Idaho postsecondary institution. Eligible skills and competencies are included as part of a high school career technical program and approved by the postsecondary institution through the agreement in advance to student participation. Credits are granted by the postsecondary institution for which the agreement is with and are transcribed at the time the student enrolls at the postsecondary institution. (3-15-22)

22. Technology Education. A curriculum for elementary, middle, and senior high schools that integrates learning about technology (e.g., transportation, materials, communication, manufacturing, power and energy, and biotechnology) with problem-solving projects that require students to work in teams. Many technology education classrooms and laboratories are well equipped with computers, basic hand tools, simple robots, electronic devices, and other resources found in most communities today. (3-15-22)

23. Unique Student Identifier. A number issued and assigned by the Board or designee to each student currently enrolled or who will be enrolled in an Idaho local education agency to obtain data. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

104. OTHER REQUIRED INSTRUCTION. Other required instruction for all students and other required offerings of the school are: (3-15-22)

01. Elementary Schools. (3-15-22)

a. The following section outlines other information required for all elementary students, as well as other required offerings of the school:

- Fine Arts (art and music)
- Health (wellness)
- Physical Education (fitness)
- Computational thinking and digital literacy (3-15-22)()

b. Additional instructional options as determined by the local school district. For example:

- Languages other than English
- Career Awareness (3-15-22)

02. Middle Schools/Junior High Schools. (3-15-22)

a. No later than the end of Grade eight (8) each student shall develop parent-approved student career pathway plans for their high school and post-high school options. The career pathway plan shall be developed by students with the assistance of parents or guardians, and with advice and recommendation from school personnel. It shall be reviewed annually and may be revised at any time. The purpose of a parent-approved student career pathway plan is to outline a course of study and learning activities for students to become contributing members of society. A student career pathway plan describes, at a minimum, the list of courses and learning activities in which the student will engage while working toward meeting the state and school district's or LEA's graduation standards in preparation for postsecondary goals. The school district or LEA will have met its obligation for parental involvement if it makes a good faith effort to notify the parent or guardian of the responsibility for the development and approval of the career pathway plan. A career pathway plan will not be required if the parent or guardian requests, in writing, that no career pathway plan be developed. (3-15-22)

b. A student must have met the grade eight (8) mathematics standards before the student will be permitted to enter grade nine (9). (3-15-22)

c. Other required instruction for all middle school students:

- Career exploration
- Health (wellness)
- Physical Education (fitness)
- Computational thinking and digital literacy (3-15-22)()

d. Other required offerings of the school:

- Fine and Performing Arts
- Career Technical Education
- Advisory Period (middle school only, encouraged in junior high school) (3-15-22)

03. High Schools. (3-15-22)

a. High schools must offer a wide variety of courses to satisfy state and local graduation requirements. High schools are required to provide instructional offerings in Physical Education (fitness) and Career Technical Education and the instruction necessary to assure students are college and career ready at the time of graduation. (3-15-22)

b. High schools will annually review and update with the student the student career pathway plans specified in Subsection 104.02.a. (3-15-22)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

A student must meet all of the requirements identified in this section before the student will be eligible to graduate from an Idaho high school. The local school district or LEA may establish graduation requirements beyond the state minimum. (3-15-22)

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include twenty-nine (29) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.h. (3-15-22)

a. Credits. One (1) credit shall equal sixty (60) hours of total instruction. School districts or LEA's may request a waiver from this provision by submitting a letter to the State Department of Education for approval, signed by the superintendent and chair of the board of trustees of the district or LEA. The waiver request shall provide information and documentation that substantiates the school district or LEA's reason for not requiring sixty (60) hours of total instruction per credit. (3-15-22)

b. Mastery. Notwithstanding the credit definition of Subsection 105.01.a., a student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the local education

agency (LEA.) (3-15-22)

c. Secondary Language Arts and Communication. Nine (9) credits are required. Eight (8) credits of instruction in Language Arts. Each year of Language Arts shall consist of language study, composition, and literature and be aligned to the Idaho Content Standards for the appropriate grade level. One (1) credit of instruction in communications consisting of oral communication and technological applications that includes a course in speech, a course in debate, or a sequence of instructional activities that meet the Idaho Speech Content Standards requirements. (3-15-22)

d. Mathematics. Six (6) credits are required. Secondary mathematics includes Integrated Mathematics, Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and quantitative reasoning including mathematics taken through career technical education programs. Dual credit engineering and computer science courses aligned to the state standards for grades nine (9) through (12), including AP Computer Science and dual credit computer Science courses may also be counted as a mathematics credit. Students who choose to take computer science and dual credit engineering courses may not concurrently count such courses as both a mathematics and science credit for the same course. (3-15-22)

i. Students must complete secondary mathematics in the following areas: (3-15-22)

(1) Two (2) credits of Algebra I, Algebra I level equivalent Integrated Mathematics or courses that meet the High School Algebra Content Standards; (3-15-22)

(2) Two (2) credits of Geometry, Geometry level equivalent Integrated Mathematics, or courses that meet the Idaho High School Geometry Content Standards; and (3-15-22)

(3) Two (2) credits of mathematics of the student's choice. (3-15-22)

e. Science. Six (6) credits are required, two (2) of which will be laboratory based. Secondary sciences include instruction in applied sciences, earth and space sciences, physical sciences, life sciences, and computer science. (3-15-22)

i. Secondary sciences include instruction in the following areas: biology, computer science, physical science or chemistry, and earth, space, environment, or approved applied science. (3-15-22)

f. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics/financial literacy (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. ~~(3-15-22)~~()

g. Humanities. Two (2) credits are required. Humanities courses include instruction in visual arts, music, theatre, dance, or world language aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Interdisciplinary Humanities Content Standards. (3-15-22)

h. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Effective for all public school students who enter grade nine (9) in Fall 2015 or later, each student shall receive a minimum of one (1) class period on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (3-15-22)

i. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the Physical Education Content Standards in a format provided by the school district. (3-15-22)

j. Computer Science. For students entering grade 9 during the fall of 2025 one (1) credit of computer science and computational thinking. For students entering grade 9 during the fall of 2026 two (2) credits of computer science and computational thinking. One (1) credit may be used to meet the computer science credit requirement concurrently with meeting one (1) mathematics or one (1) science credit. ()

02. Content Standards. Each student shall meet locally established subject area standards (using state content standards as minimum requirements) demonstrated through various measures of accountability including examinations or other measures. (3-15-22)

03. Senior Project. The senior project is a culminating project to show a student's ability to analyze, synthesize, and evaluate information and communicate that knowledge and understanding. A student must complete a senior project by the end of grade twelve (12). Senior projects may be multi-year projects, group or individual projects, or approved pre-internship or school to work internship programs, at the discretion of the school district or charter school. The project must include elements of research, development of a thesis using experiential learning or integrated project based learning experiences and presentation of the project outcome. Additional requirements for a senior project are at the discretion of the local school district or LEA. Completion of a postsecondary certificate or degree at the time of high school graduation or an approved pre-internship or internship program may be used to meet this requirement. (3-15-22)

04. Civics and Government Proficiency. Pursuant to Section 33-1602, Idaho Code, each LEA may establish an alternate path for determining if a student has met the state civics and government content standards. Alternate paths are open to all students in grades seven (7) through twelve (12.) Any student who has been determined proficient in the state civics and government content standards either through the completion of the civics test or an alternate path shall have it noted on the student's high school transcript. (3-15-22)

05. Middle School. A student will have met the high school content and credit area requirement for any high school course if the requirements outlined in Subsections 105.06.a. through 105.06.c. of this rule are met. (3-15-22)

a. The student completes such course with a grade of C or higher before entering grade nine (9); (3-15-22)

b. The course meets the same content standards that are required in high school for the same course; and (3-15-22)

c. The course is taught by a teacher properly certified to teach high school content and who meets the federal definition of highly qualified for the course being taught. (3-15-22)

d. The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course will be transferred to the student's high school transcript. Notwithstanding this requirement, the student's parent or guardian shall be notified in advance when credits are going to be transcribed and may elect to not have the credits and grade transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.c. through 105.01.h. except as provided in 105.01.d.iii. The transcribing high school is required to verify the course meets the requirements specified in Subsections 105.05.a. through 105.05.c. of this rule. (3-15-22)

06. Special Education Students. A student who is eligible for special education services under the Individuals With Disabilities Education Improvement Act may, with the assistance of the student's Individualized Education Program (IEP) team, meet the graduation requirements through to the current Idaho Special Education Manual specifications. (3-15-22)

07. Foreign Exchange Students. A foreign exchange student may be eligible for graduation by completing a comparable program as approved by the LEA. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

110. ALTERNATIVE SECONDARY PROGRAMS.

Alternative secondary instructional programs are those that provide special instructional courses and offer special services to eligible at-risk youth to enable them to earn a high school diploma. Designated differences must be established between the alternative school programs and the regular secondary school programs. Alternative secondary school programs will include course offerings, teacher/pupil ratios and evidence of teaching strategies that are clearly designed to serve at-risk youth, pursuant to Section 33-1001, Idaho Code. (3-15-22)()

01. Instruction. Special instruction courses for at-risk youth enrolled in an alternative secondary instructional program will include: (3-15-22)()

- a. Core academic content that meets or exceeds minimum state standards; (3-15-22)
- b. A physical fitness and personal health component; (3-15-22)
- c. Career and technical education component approved by the state division of career technical education; (3-15-22)
- d. A personal finance, parenting, and child care component; and (3-15-22)
- e. A personal and career counseling component. (3-15-22)

02. Graduation Credit. Graduation credit may be earned in the following areas: academic subjects, electives, and approved work-based learning experiences. Nonacademic courses, i.e., classroom and office aides do not qualify for credit unless they are approved work-based learning experiences. (3-15-22)

03. Special Services. Special services for at-risk youth enrolled in alternative secondary programs include the following where appropriate: (3-15-22)

- a. A day care center when enrollees are also parents. This center should be staffed by a qualified child care provider. (3-15-22)
- b. Direct social services that may include officers of the court, social workers, counselors/psychologists. (3-15-22)
- c. All services in accordance with the student's Individualized Education Program. (3-15-22)

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

01. Philosophy. Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. The State Board of Education will provide oversight for all components of the comprehensive assessment program. (3-15-22)

- 02. Purposes.** The purpose of assessment in the public schools is to: (3-15-22)
- a. Measure and improve student achievement; (3-15-22)
 - b. Assist classroom teachers in designing lessons; (3-15-22)
 - c. Identify areas needing intervention and remediation, and acceleration; (3-15-22)
 - d. Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-22)

- e. Inform parents and guardians of their child's progress; (3-15-22)
- f. Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-22)
- g. Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-22)
- h. Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-22)

03. Content. The comprehensive assessment program will consist of multiple assessments, including, the Idaho Reading Indicator (IRI), the National Assessment of Educational Progress (NAEP), the Idaho English Language Assessment, the Idaho Standards Achievement Tests (ISAT), the Idaho Alternate Assessment, and a college entrance exam. (3-15-22)

04. Testing Population. All students in Idaho public schools, grades kindergarten through twelve (K-12), are required to participate in the comprehensive assessment program approved by the State Board of Education and funded. (3-15-22)

a. All students who are eligible for special education shall participate in the statewide assessment program. (3-15-22)

b. Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with accommodations or adaptations, or whether the student qualifies for and shall participate in the alternate assessment. (3-15-22)

c. Limited English Proficient (LEP) students, as defined in Subsection 112.05.g.iv., may receive designated supports or accommodations, or both, for the ISAT assessment if need has been indicated by the LEP student's Educational Learning Plan (ELP) team. The team shall outline the designated supports or accommodations, or both, in an ELP prior to the assessment administration. Designated supports or accommodations, or both, shall be familiar to the student during previous instruction and for other assessments. LEP students who are enrolled in their first year of school in the United States may take Idaho's English language assessment in lieu of the English language ISAT, but will still be required to take the ISAT (Mathematics and Science). Such LEP students will be counted as participants for the ninety-five percent (95%) participation target, as described in Subsection 112.05.e. However, such LEP students are not required to be counted for accountability purposes as described in Subsection 112.05.i. (3-15-22)

05. Scoring and Report Formats. Scores will be provided for each subject area assessed and reported in standard scores, benchmark scores, or holistic scores. Test results will be presented in a class list report of student scores, building/district summaries, content area criterion reports by skill, disaggregated group reports, and pressure sensitive labels as appropriate. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. (3-15-22)

a. All students taking the Idaho Standards Achievement Test (ISAT) must have a unique student identifier. (3-15-22)

b. Districts must send all assessment results and related communication to parents within three (3) weeks of receipt from the state. (3-15-22)

06. Comprehensive Assessment Program. The State approved comprehensive assessment program is outlined in Subsections 111.06.a. through 111.06.n. Each assessment will be comprehensive of and aligned to the Idaho State Content Standards it is intended to assess. In addition, districts are responsible for writing and implementing assessments in those standards not assessed by the state assessment program. (3-15-22)

- a.** Kindergarten - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- b.** Grade 1 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- c.** Grade 2 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- d.** Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- e.** Grade 4 - National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- f.** Grade 5 - Grade 5 Idaho Standards Achievement Tests in English language usage, mathematics, and science; Idaho Alternate Assessment; Idaho English Language Assessment. (3-15-22)
- g.** Grade 6 - Grade 6 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- h.** Grade 7 - Grade 7 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- i.** Grade 8 - National Assessment of Educational Progress; Grade 8 Idaho Standards Achievement Tests in English language usage, mathematics, and science; Idaho Alternate Assessment; Idaho English Language Assessment. (3-15-22)
- j.** Grade 9 - High School Idaho Standards Achievement Tests (optional at the discretion of the school district or charter school), Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)
- k.** Grade 10 - High School Idaho Standards Achievement Tests (optional at the discretion of the school district or charter school), Idaho Alternate Assessment, Idaho English Language Assessment. ~~(3-15-22)~~()
- l.** Grade 11 - High School Idaho Standards Achievement Test in English language usage and mathematics, science, Idaho Alternate Assessment, Idaho English Language Assessment, and college entrance exam (optional at the discretion of the student's parent). ~~(3-15-22)~~()
- m.** Grade 12 - National Assessment of Educational Progress, Idaho English Language Assessment, and college entrance exam (optional at the discretion of the student's parent). ~~(3-15-22)~~()
- 07. Comprehensive Assessment Program Schedule.** (3-15-22)
- a.** The Idaho Standards Achievement Tests will be administered in the Spring in a time period specified by the State Board of Education. (3-15-22)
- b.** The Idaho Alternate Assessment will be administered in a time period specified by the State Board of Education. (3-15-22)
- c.** Idaho's English Language Assessment will be administered in a time period specified by the State Board of Education. (3-15-22)

08. Achievement Standards and Performance Level Descriptors. Assessment achievement standards, development standards, and performance level descriptors will be set by the State Board of Education in a

schedule and format established by the Board and will be made available through the State Board of Education and Department of Education websites. Achievement standards, development standards, and performance level descriptors include, but are not limited to: ()

a. The English Language Development (ELD) Standards. The WIDA 2020 English Language Development (ELD) Standards. Copies of the document can be found at <https://wida.wisc.edu>. ()

b. The Idaho English Language Proficiency Assessment (ELPA) Achievement Standards. ()

c. The Idaho Standards Achievement Tests (ISAT) Achievement Level Descriptors. ()

d. The Idaho Content Standards Core Content Connectors. ()

i. English Language Arts. ()

ii. Mathematics. ()

iii. Science. ()

e. The Idaho Alternate Assessment Achievement Standards. ()

089. Costs Paid by the State. Costs for the following testing activities will be paid by the state: (3-15-22)

a. All consumable and non-consumable materials needed to conduct the prescribed statewide comprehensive assessment program; (3-15-22)

b. Statewide distribution of all assessment materials; and (3-15-22)

c. Processing and scoring student response forms, distribution of prescribed reports for the statewide comprehensive assessment program. (3-15-22)

0910. Costs of Additional Services. Costs for any additional administrations or scoring services not included in the prescribed statewide comprehensive assessment program will be paid by the participating school districts. (3-15-22)

101. Test Security, Validity and Reliability. (3-15-22)

a. Test security is of the utmost importance. To ensure integrity of secure test items and protect validity and reliability of test outcomes, test security must be maintained. School districts will employ security measures in protecting statewide assessment materials from compromise. Each individual who has any opportunity to see test items must sign a state-provided confidentiality agreement, which the district must keep on file in the district for at least two (2) years. Documentation of security safeguards must be available for review by authorized state and federal personnel. (3-15-22)

b. Any assessment used for federal reporting shall be independently reviewed for reliability, validity, and alignment with the Idaho Content Standards. (3-15-22)

112. Demographic Information. Accurate demographic information must be submitted as required for each test to assist in interpreting test results. It may include but is not limited to race, sex, ethnicity, and special programs, (Title I, English proficiency, migrant status, special education status, gifted and talented status, and socio-economic status). (3-15-22)

123. Dual Enrollment. For the purpose of non-public school student participation in non-academic public school activities as outlined in Section 33-203, Idaho Code, the Idaho State Board of Education recognizes the following: (3-15-22)

- a. The Idaho Standards Achievement Tests (grades 3-8 and High School). (3-15-22)
- b. A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (3-15-22)
 - i. Language Arts/Communications. (3-15-22)
 - ii. Math. (3-15-22)
 - iii. Science. (3-15-22)
 - iv. Social Studies. (3-15-22)
 - v. Health. (3-15-22)
 - vi. Humanities. (3-15-22)

112. ACCOUNTABILITY.

School district, charter district and public charter school accountability will be based on multiple measures aimed at providing meaningful data showing progress toward interim and long-term goals set by the State Board of Education for student achievement and school improvement. The state accountability framework will be used to meet both state and federal school accountability requirements and will be broken up by school category and include measures of student academic achievement and school quality as determined by the State Board of Education. In addition to those measures identified in the state accountability framework, all school categories will administer an annual satisfaction and engagement survey to parents, students, and teachers. ~~(3-15-22)~~()

- 01. School Category.** (3-15-22)
 - a. Kindergarten through grade eight (K-8): Schools in this category include elementary and middle schools as defined in Subsection 112.05.f. (3-15-22)
 - b. High Schools, not designated as alternative high schools, as defined in Subsection 112.05.f. (3-15-22)
 - c. Alternative High Schools. (3-15-22)
- 02. Academic Measures ~~by School Category.~~** ~~(3-15-22)~~()
 - a. K-8, High School, and Alternative High School: ~~(3-15-22)~~()
 - i. Idaho Standards Achievement Tests (ISAT) Proficiency. (3-15-22)
 - ii. ISAT growth toward proficiency based on a trajectory model approved by the State Board of Education. (3-15-22)
 - iii. ISAT proficiency gap closure. (3-15-22)
 - ~~iv. Idaho statewide reading assessment proficiency.~~ ~~(3-15-22)~~
 - iv. English Learners achieving English language proficiency. (3-15-22)
 - vi. English Learners achieving English language growth toward proficiency. (3-15-22)
 - b. K-8 only:** ()

- i. Idaho statewide reading assessment proficiency as applicable to the grades served. ()
- ~~b.c.~~ High School and Alternative High School specific: (3-15-22)()
- ~~i.~~ ISAT proficiency. (3-15-22)
- ~~ii.~~ ISAT proficiency gap closure. (3-15-22)
- ~~iii.~~ English Learners achieving English language proficiency. (3-15-22)
- ~~iv.~~ English Learners achieving English language growth toward proficiency. (3-15-22)
- ~~v.i.~~ Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-15-22)
- ~~v.ii.~~ Five (5) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-15-22)
- ~~e.~~ Alternative High School: (3-15-22)
- ~~i.~~ ISAT proficiency. (3-15-22)
- ~~ii.~~ English learners achieving English language proficiency. (3-15-22)
- ~~iii.~~ English learners achieving English language growth towards proficiency. (3-15-22)
- ~~iv.~~ Four (4) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-15-22)
- ~~v.~~ Five (5) year cohort graduation rate, including students who complete graduation requirements prior to the start of the school district or charter schools next fall term. (3-15-22)
- 03. School Quality Measures by School Category.** (3-15-22)
- a.** K-8, High School, and Alternative High School: (3-15-22)()
- i. Communication with parents on student achievement ()
- ii. Chronic absenteeism ()
- b.** K-8 Only ()
- i. Students in grade 8 enrolled in pre-algebra or higher. (3-15-22)
- ~~ii.~~ Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-15-22)
- ~~b.c.~~ High School and Alternative High School: (3-15-22)()
- i. College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school apprenticeship programs. (3-15-22)
- ii. Credit recovery and accumulation. ()
- d. High School only: ()

- ii. Students in grade 9 enrolled in algebra I or higher. (3-15-22)
 - iii. Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-15-22)
 - ee. Alternative High School only: ~~(3-15-22)()~~
 - i. ~~Credit recovery and accumulation. (3-15-22)~~
 - ii. ~~College and career readiness determined through a combination of students participating in advanced opportunities, earning industry recognized certification, and/or participation in recognized high school apprenticeship programs. (3-15-22)~~
 - iii. State satisfaction and engagement survey administered to parents, students, and teachers ~~(effective starting in the 2018-2019 school year). (3-15-22)()~~
 - iv. ~~Communication with parents on student achievement (effective starting in the 2018-2019 school year). (3-15-22)~~
- 04. Reporting.** Methodologies for reporting measures and determining performance will be set by the State Board of Education. (3-15-22)
- 05. Annual Measurable Progress Definitions.** For purposes of calculating and reporting progress, the following definitions shall be applied. (3-15-22)
- a. Annual Measurable Progress. (3-15-22)
 - i. The State Department of Education will make determinations for schools and districts each year. Results will be given to the districts at least one (1) month prior to the first day of school. (3-15-22)
 - ii. The State Board of Education will set long-term goals and measurements of interim progress targets toward those goals. The baseline for determining measurable student progress will be set by the State Board of Education and shall identify the amount of growth (percentage of students reaching proficiency) required for each intermediate period. (3-15-22)
 - b. Full Academic Year (continuous enrollment). (3-15-22)
 - i. A student who is enrolled continuously in the same public school from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included in the calculation to determine if the school achieved progress in any statewide assessment used for determining proficiency. A student is continuously enrolled if the student has not transferred or dropped-out of the public school. Students who are serving suspensions are still considered to be enrolled students. (3-15-22)
 - ii. A student who is enrolled continuously in the school district from the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the school district has achieved AYP. (3-15-22)
 - iii. A student who is enrolled continuously in a public school within Idaho from the end of the first eight (8) weeks or fifty-six (56) calendar days of the school year through the state approved spring testing administration period, not including the make-up portion of the test window, will be included when determining if the state has achieved progress in any statewide assessment used for determining proficiency. (3-15-22)
 - c. Participation Rate. (3-15-22)
 - i. Failure to include ninety-five percent (95%) of all students and ninety-five percent (95%) of

students in designated subgroups automatically identifies the school as not having achieved measurable progress in ISAT proficiency. The ninety-five percent (95%) determination is made by dividing the number of students assessed on the Spring ISAT by the number of students reported on the class roster file for the Spring ISAT. (3-15-22)

(1) If a school district does not meet the ninety-five percent (95%) participation target for the current year, the participation rate can be calculated by the most current three (3) year average of participation. (3-15-22)

(2) Students who are absent for the entire state-approved testing window because of medical reasons or are homebound are exempt from taking the ISAT if such circumstances prohibit them from participating. Students who drop out, withdraw, or are expelled prior to the beginning of the final makeup portion of the test window are considered exited from the school. (3-15-22)

ii. For groups of ten (10) or more students, absences for the state assessment may not exceed five percent (5%) of the current enrollment or two (2) students, whichever is greater. Groups of less than ten (10) students will not have a participation determination. (3-15-22)

d. Schools. As used in this section, schools refers to any school within a school district or charter district and public charter schools. (3-15-22)

i. An elementary school includes a grade configuration of grades Kindergarten (K) through six (6) inclusive, or any combination thereof. (3-15-22)

ii. A middle school is a school that does not meet the definition of an elementary school and contains grade eight (8) but does not contain grade twelve (12). (3-15-22)

iii. A high school is any school that contains grade twelve (12). (3-15-22)

iv. An alternative high school is any school that contains grade twelve (12) and meets the requirements of Section 110 of these rules. (3-15-22)

v. The accountability of public schools without grades assessed by this system (i.e., K-2 schools) will be based on the third grade test scores of the students who previously attended that feeder school. (3-15-22)

vi. A “new school” for purposes of accountability is a wholly new entity receiving annual measurable progress determinations for the first time, or a school with a significant student population change as a result of schools being combined or geographic boundaries changing, or a result of successful school restructuring sanctioned by the Office of the State Board of Education. (3-15-22)

e. Subgroups. Scores on the ISAT must be disaggregated and reported by the following subgroups: (3-15-22)

i. Race/Ethnicity - Black/African American, Asian, Native Hawaiian/Pacific Islander, White, Hispanic/Latino Ethnicity, American Indian/Alaska Native. (3-15-22)

ii. Economically disadvantaged - identified through the free and reduced lunch program. (3-15-22)

iii. Students with disabilities - individuals who are eligible to receive special education services through the Individuals with Disabilities Education Act (IDEA). (3-15-22)

iv. Limited English Proficient - individuals who do not score proficient on the state-approved language proficiency test and meet one (1) of the following criteria: (3-15-22)

(1) Individuals whose native language is a language other than English; or (3-15-22)

(2) Individuals who come from environments where a language other than English is dominant; or (3-15-22)

(3) Individuals who are American Indian and Alaskan natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency, and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms, where the language of instruction is English. (3-15-22)

f. Graduation Rate. The graduation rate will be based on the rate of the cohort of students entering grade nine (9) during the same academic year and attending or exiting the school within a four (4) year or five (5) year period as applicable to the measure being determined. In determining the graduation cohort the school year shall include the students who complete graduation requirements prior to the start of the school district or charter schools next fall term. School districts may only report students as having graduated if the student has met, at a minimum, the state graduation requirements, pursuant to Section 105, and will not be returning to the school in following years to complete required academic course work. The State Board of Education will establish a target for graduation. All high schools must meet the target or make sufficient progress toward the target each year, as determined by the State Board of Education. The graduation rate will be disaggregated by the subgroups listed in Subsection 112.05.g. (3-15-22)

g. Additional Academic Indicator. The State Board of Education will establish a target for all additional academic and school quality measures. All schools must maintain or make progress toward the additional academic and school quality measure target each year. The additional academic and school quality measure targets will be disaggregated by the subpopulations listed in Subsection 112.05.g. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

160. SAFE ENVIRONMENT AND DISCIPLINE.

01. Each school district and public charter school will have a comprehensive district/school wide policy and procedures encompassing the following: ()

School Climate
Discipline
Student Health
Violence Prevention
Possessing Weapons on Campus
Substance Abuse - Tobacco, Alcohol, and Other Drugs
Suicide Prevention
Student Harassment
Drug-free School Zones
Building Safety including Evacuation Drills
Relationship Abuse and Sexual Assault Prevention and Response

a. Student health policies must include: ()

i. seizure action plans identifying staff qualified to assist in the instance of a seizure, administration of seizure rescue medication, and any required staff training and timelines for training. ()

ii. administration of medical inhalers, epinephrine auto-injectors, insulin and blood glucose monitoring, pursuant to Section 33-520, Idaho code. ()

b. ~~Districts will conduct an annual~~ ^Δ review of these policies and procedures ~~will be conducted annually.~~ (See Section 33-1612, Idaho Code) ~~(3-15-22)~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

200. K-12 IDAHO CONTENT STANDARDS.

~~As stated in Subsection 105-02 of these Thoroughness rules,~~ sets forth the minimum graduation requirements for all students graduating from Idaho public high schools ~~must meet locally established content standards,~~ as authorized by Section 33-118, Idaho Code. The standards set forth in Section 004 ~~of this rule are state content standards that shall be~~ are the minimum standards to be used by every school district in the state in order to establish a level of academic content necessary to graduate from Idaho's public schools. Each school district may set standards more rigorous than these state content standards but no district shall use any standards less rigorous than those set forth in these Thoroughness rules. (3-15-22)

IDAPA 08 – STATE BOARD OF EDUCATION
08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS
DOCKET NO. 08-0204-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, and chapter 52, title 33, Idaho Code

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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 accordance with [Executive Order 2020-01](#), this rulemaking is the result of a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. Amendments include the removal of unnecessary provision to streamline and simply the regulations and remove requirements that are duplicative of provisions established in chapter 52, title 33, Idaho code. Additionally, provisions identified in IDAPA 08.03.01 regarding the charter school petition process that were not previously included in IDAPA 08.02.04 have been added to IDAPA 08.02.04 and IDAPA 08.03.01 are proposed to be repealed under Docket 08-0301-2201.

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

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 91](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)332-1582
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0204-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

08.02.04 – RULES GOVERNING PUBLIC CHARTER SCHOOLS

000. LEGAL AUTHORITY.

In accordance with Sections 33-105, 33-5203, and 33-5210(4)(e), Idaho Code, the Board is authorized to promulgate rules implementing the provisions of Title 33, Chapter 52, Idaho Code. ()

001. SCOPE.

These rules establish a consistent application and review process for the approval and maintenance of public charter schools in Idaho. ()

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

The provisions found in Sections 400 through 404, of these rules, govern administrative appeals of public charter schools. ()

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Authorizer Fee. Fee paid by each public charter school to its authorized chartering entity. ()

02. Board. Means the Idaho State Board of Education. ()

03. Charter Holder. Means the governing board of the non-profit corporation to which a charter has been granted by an authorized chartering entity, as defined in Section 33-5202A(a), Idaho Code. ()

04. Commission. Means the Idaho Public Charter School Commission, as provided by Section 33-5213, Idaho Code. ()

05. Department. Means the Idaho Department of Education. ()

06. District. Means an Idaho public school district. ()

07. Institution. Means an Idaho public college, university of community college, or a private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities. ()

08. Petitioners. Means the group of persons who submit a petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school, as provided by Section 33-5205, Idaho Code, and the procedures described in Sections 200 through 205 of these rules. ()

09. School Year. Means the period beginning on July 1 and ending the next succeeding June 30 of each year. ()

011. -- 099. (RESERVED)

100. LIMITATIONS ON NEW PUBLIC CHARTER SCHOOLS.

01. Responsibilities of Petitioners on Approval of Charter. Upon the approval of a new public charter school by an authorized chartering entity, the petitioners shall provide the Board with written notice of such approval. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. ()

02. Authorization to Begin Educational Instruction. The public charter schools authorized to begin educational instruction during a given school year shall be those public charter schools that have received approval from their authorized chartering entities to begin educational instruction during such school year. A public charter school that is approved by an authorized chartering entity, but which does not begin educational instruction must confirm with the Board, on or before June 1 preceding the next succeeding school year, that it is able to begin educational instruction during such school year. ()

101. AUTHORIZED CHARTERING ENTITY.

01. Governing Board. An institution or district shall receive approval from their governing board prior to accepting petitions or authorizing any charter schools. ()

a. Notwithstanding Sections 400 through 404, of these rules, denial of a new petition by an institution is final. A petitioner may submit a petition that has been denied by an institution to any other authorized chartering entity. ()

102. AUTHORIZER FEE.

01. Notification. It is the responsibility of each authorizer to notify the Department if the authorizer fee has not been received by the date specified in Section 33-5208, Idaho Code. ()

a. The authorizer must provide notification of the delinquent fee to the charter school prior to reporting to the Department. ()

b. The authorizer must provide the amount delinquent and proof of notification to the charter school within thirty (30) days of the non-payment of the authorizer fee. ()

c. The Department shall withhold the amount of the delinquent fee from the next scheduled release of funds to the charter school. The funds will be withheld until the Department has received notification from the authorizer that the authorizer fee has been paid in full. ()

103. -- 199. (RESERVED)

200. PROCEDURE FOR FORMATION OF A NEW PUBLIC CHARTER SCHOOL.

01. Public Charter School Workshops. The purpose of the public charter school workshops shall be to provide public charter school petitioners with a brief overview of a variety of educational and operational issues relating to public charter schools, as well as to answer questions and to provide technical assistance, as may be necessary, to aid petitioners in the preparation of public charter school petitions. ()

02. Petition Submittal. A public charter school petition may be submitted to only one (1) authorized chartering entity at a time. A petitioner may submit a petition that has been denied by an authorized chartering entity to any other authorized chartering entity after an appeal process, if any, is complete and a final decision has been reached. ()

201. POLICIES AND PROCEDURES ADOPTED BY AN AUTHORIZED CHARTERING ENTITY.

An authorized chartering entity must adopt policies and procedures describing the charter school petition process and the procedures that petitioners must comply with in order to form a new public charter school, including a public virtual school. Petitioners must comply with the policies and procedures adopted by the authorized chartering entity with which a petition is submitted. Such charter school policies and procedures must comply with Title 33, Chapter 52, Idaho Code, and the rules promulgated by the Board. If there is any conflict between the charter school policies and procedures adopted by an authorized chartering entity and rules promulgated by the Board, then the Board rules shall govern. ()

202. NEW PUBLIC CHARTER SCHOOL APPLICATION REQUIREMENTS.

Petitioners seeking to establish a new public charter school must apply to an authorized chartering entity through the

submittal of a petition consisting of all of the following elements: ()

01. Introduction. Briefly introduce the proposed public charter school by providing the following: ()

a. Cover page with the proposed school’s name, intended opening year, general location, and the contact information for one (1) petitioner who will serve as liaison with the authorizer during the petition process; ()

b. Table of contents; ()

c. One-page (1) executive summary describing the proposed school’s organizational structure, educational program, and student outcome expectations; and ()

d. Mission statement. ()

02. Educational Program. Describe the proposed school’s educational program by explaining the following: ()

a. Educational philosophy; ()

b. Student academic achievement standards and any additional goals and methods for measuring achievement; ()

c. Key educational design elements, including curricula, tools and instructional methods identified to carry out the educational philosophy and meet the stated academic achievement standards and goals, which may include evidence demonstrating efficacy of these elements; and ()

d. Strategies for meeting the needs of specific student populations, including, but not limited to, students identified as at-risk, students who qualify for special education or gifted and talented services, or students identified as English language learners. ()

03. Financial and Facilities Plan. Demonstrate a sound understanding of public charter school finances and facilities needs. ()

a. State whether the school intends to provide transportation or food service, and provide plans for provision of these services if they will be offered; ()

b. Describe how the school’s finances will be managed and monitored; ()

c. Provide a working draft of the school’s prospective facilities plan, including likely facilities needs and estimated costs; ()

d. Provide a description of any potential facilities that have been identified and a timeline and process for securing appropriate space; and ()

e. Attach the following to Appendix A: Pre-opening budget and three-year operating budget, including detailed assumptions for all revenue and expenditures for each year; year one (1), break-even budget demonstrating the minimum enrollment needed to achieve a zero (0) or marginal net income balance at the end of the year; cash flow projection for the first operational year, demonstrating an understanding of charter school monetary flow; evidence of existing and anticipated funds; and evidence that projected facilities costs are reasonable within the start-up and three-year budgets. ()

04. Board Capacity and Governance Structure. Provide information about the legal entity and the individuals involved in opening the proposed school. ()

a. Attach copies of the nonprofit corporation’s Articles of Incorporation and Corporate Bylaws to

Appendix B, though note that they will not be incorporated as part of the school’s charter; ()

b. Provide a description of the governance structure; ()

c. List any already identified members of the board of directors, attach their professional resumes to Appendix C, and provide any additional information about their qualifications; ()

d. Describe the board’s plan for a smooth transition from initial founding members to subsequent members; and ()

e. Describe the plan for board member recruitment and training. ()

05. Student Demand and Primary Attendance Area. Demonstrate the need and community demand for the proposed public charter school in the selected location. ()

a. Describe the primary attendance area and list the public school districts that overlap this area; ()

b. Clearly articulate the need and demand for a school in the selected location, including demographics for the intended neighborhood. Need is the reason(s) existing schools are insufficient or inadequate and includes state performance data. Demand is evidence of desire from prospective families to attend the school; ()

c. Describe the population of students the proposed school intends to serve and how the selected location supports serving such students; ()

d. Provide the target enrollment by grade level and projected growth over the first three (3) years of operations and maximum student enrollment capacity if the petitioners do not anticipate reaching capacity by year three (3); ()

e. Describe any community partnerships or other local support for the proposed school; and ()

f. Describe strategies for informing under-served students and their families about the prospective school and the enrollment process. ()

06. School Leadership and Management. Describe the proposed school’s administrative leadership structure, and provide information about any potential education service providers. ()

a. Attach an organizational chart to Appendix D illustrating the proposed school’s leadership structure and indicating the reporting structures of school leaders to the board. If school leaders have already been identified, include their names, contact information, resumes, and any additional information about their qualifications in the appendices. ()

b. Describe the responsibilities of and relationships among school leadership, the governing board, instructional leaders, and staff, and include a plan for evaluating school leaders. ()

c. If the proposed school intends to work with an educational service provider, provide the name of the company, a contact within the company, and specify in detail the extent of the entity’s participation in the management and operation of the school. Attach the following to Appendix E: ()

i. A term sheet indicating the fees to be paid by the proposed school to the management company, the length of the proposed contract, the terms for the contracts renewal, and provisions for termination; ()

ii. Copies of the two (2) most recent contracts that the entity has executed with operating charter schools; and ()

iii. A detailed description of the education service provider’s relationship to the school’s board of directors; ()

iv. A detailed description of how and why the management organization or educational service provider was selected, and evidence that the organization provides high-quality service to similarly situated schools, if applicable. ()

07. Supporting Documents. ()

a. Appendix A – Budgets, cash flow, additional funds. ()

b. Appendix B – Articles of Incorporation and Bylaws. ()

c. Appendix C – Board of Directors. ()

d. Appendix D – School Administration. ()

e. Appendix E – Education Service Provider. ()

f. Appendix F – Optional additional supporting documents. ()

203. ADMISSION PROCEDURES.

01. Model Admission Procedures. Admission to a public charter school shall be determined by an equitable selection process. The commission shall make available to all public charter schools a model procedure. The equitable selection process must be held within seven (7) days of the enrollment deadlines as defined in Subsection 203.02 and must take place in a public setting, the date and time of which must be noticed to the public at least 48 hours in advance. ()

02. Enrollment Deadline. A charter holder shall establish an enrollment deadline for each school year and may establish an enrollment capacity below that stated in the public charter school’s performance certificate. The deadline shall be established either by annual vote of the charter holder’s board of directors or by establishment of charter holder policy. The enrollment deadline shall be the date by which all written requests for admission to attend the public charter school for the next school year must be received. Neither the enrollment deadline nor a lowered enrollment capacity may be changed once the enrollment information is disseminated as required by Subsection 203.03. ()

03. Enrollment Opportunities. A charter holder shall ensure that citizens in the primary attendance area, as it is defined in the school’s performance certificate, are made aware of the enrollment opportunities of the public charter school. ()

a. The notice must include the enrollment deadline, the public charter school’s total enrollment capacity for the next school year, and an advisory that all prospective students will be given the opportunity to enroll in the public charter school, regardless of race, color, national origin, ethnicity, religion, gender, socioeconomic status, or special needs; ()

b. One (1) or more notices must be publicly disseminated within the primary attendance area by an independent third party. Notices include, but are not limited to, printed publications, technology and social media broadcasts, or signage displayed by community partners outside of the school’s physical location. ()

04. Requests for Admission. A parent, guardian, or other person with legal authority to make decisions regarding school attendance on behalf of a child residing in this state, must make a request in writing in electronic or hard-copy format for such child to attend a public charter school. ()

a. The written request for admission shall contain the name and contact information of a legal guardian of the prospective student; the name of the student, the last grade level completed, and address of the prospective student if different from the legal guardian. Requests must indicate whether the prospective student is a sibling of a currently enrolled student. The request for admission may only request that information that is necessary for determining the students eligibility for admittance as approved in the charter school performance certificate.

()

b. In the case of a family with more than one (1) child seeking to attend a public charter school, a single written request for admission must be submitted on behalf of all siblings. The written request for admission must be submitted to, and received by, the public charter school on or before the established enrollment deadline. The written request for admission shall contain the name, grade level, address, and telephone number of each prospective student in a family. If the initial capacity of the public charter school is insufficient to enroll all prospective students, then an equitable selection process, such as a lottery or other random method, shall be utilized to determine which prospective students will be admitted to the public charter school, as described in Subsection 203.09 of this rule. Only those written requests for admission submitted on behalf of prospective students that are received prior to the enrollment deadline established by the public charter school shall be permitted in the equitable selection process. Only written requests for admission shall be considered by the public charter school. Written requests for admission received after the established enrollment deadline will be added to the bottom of the waiting list for the appropriate grade. If there is an opening in one grade, a sibling, if any, from a late submitted application must go to the bottom of the sibling list. ()

c. Where a weighted lottery has been approved through the charter school's performance certificate and in compliance with the admission preference requirements established in Section 33-5206, Idaho Code, the charter school may request such data as is necessary to apply the provisions of the weighted lottery. ()

05. Final Selection List. The names of the persons in highest order on the final selection list shall have the highest priority for admission to the public charter school in that grade, and shall be offered admission to the public charter school in such grade until all seats for that grade are filled. A waitlist of prospective students shall be compiled each year after the equitable selection process has been completed. The waitlist shall consist of students for whom no open seat is currently available and shall prioritize first, prospective students for whom a request for admission was received before the enrollment deadline in the order in which the students were selected during the equitable selection process, and second, prospective students for whom a written request for admission was received after the enrollment deadline in the order in which the request was received. ()

06. Notification and Acceptance Process. With respect to students selected for admission to the public charter school, within seven (7) days after conducting the equitable selection process, the public charter school shall send an offer letter to the legal guardian who submitted a written request for admission on behalf of a student, advising such person that the student has been selected for admission to the public charter school. The offer letter must be signed by such student's parent, or guardian, and returned to the public charter school by the date designated in such offer letter by the public charter school. ()

a. With respect to a prospective student not eligible for admission to the public charter school, within seven (7) days after conducting the selection process, the public charter school shall send a letter to the legal guardian who submitted a request for admission on behalf of such student, advising such person that the prospective student is not eligible for admission, but will be placed on a waiting list and may be eligible for admission at a later date if a seat becomes available. ()

b. If a legal guardian receives an offer letter on behalf of a student and declines admission, or fails to timely sign and return such offer by the date designated in such offer letter by the public charter school, then the name of such student will be stricken from the final selection list, and the seat that opens in that grade will be made available to the next eligible student on the final selection list. ()

c. If a student withdraws from the public charter school during the school year for any reason, then the seat that opens in that grade will be made available to the next eligible student on the final selection list. ()

07. Subsequent School Years. The final selection list for a given school year shall not roll over to the next subsequent school year. The legal guardian of a student who remains on the waitlist when the next enrollment deadline is noticed to the public must be notified that a new written request for admission must be completed prior to the new enrollment deadline in order for the student to be added to the prospective student list. If the capacity of the public charter school is insufficient to enroll all prospective students during the next subsequent school year, then a new equitable selection process shall be conducted by the public charter school for such school year. ()

204. (RESERVED)

205. NEW CHARTER SCHOOL PETITIONS.

01. Approval of a New Charter School Petition. ()

a. If a petition is approved, then the authorized chartering entity and the petitioners must execute a performance certificate within seventy-five (75) days of the approval. ()

b. The authorized chartering entity shall provide the Board with written notice of approval of a new public charter school. The authorized chartering entity of the public charter school shall provide the Board with copies of the charter and any charter revisions upon request. ()

02. Denial of a New Charter School Petition. ()

a. If a petition is denied, then the authorized chartering entity must promptly prepare for petitioners a written notice of its decision to deny the charter. The written decision shall include all of the reasons for the denial, and shall also include a reasoned statement that states or explaining the criteria and standards considered relevant by the authorized chartering entity, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorized chartering entity. ()

b. Only petitions submitted to a local board of trustees of a school district or the public charter school commission may be appealed. The petitioners may appeal the decision of the authorized chartering entity, in accordance with the procedures described in Sections 401 through 402 of these rules. ()

206. -- 299. (RESERVED)

300. CHARTER HOLDER RESPONSIBILITIES.

01. General. The charter holder of a public charter school shall be responsible for ensuring that the public charter school is adequately staffed, and that such staff provides sufficient oversight over all operational and educational activities. In addition, the governing board shall be responsible for ensuring that the school complies with all applicable federal and state education standards, as well as all applicable state and federal laws, rules and regulations, and policies. ()

02. Compliance with Terms of Performance Certificate. The governing board of a public charter school shall be responsible for ensuring that the school is in compliance with the terms and conditions of the performance certificate approved executed in accordance with Section 33-5205B(1), Idaho Code. Intentional failure to operate a charter school within the terms and conditions of the executed performance certificate are grounds to initiate a review by the authorized chartering entity and may result in the addition of stipulations on the performance certificate or revocation of the charter. ()

03. Annual Reports. An authorized chartering entity may request that a public charter school provide additional information to ensure that the public charter school is meeting the terms of its performance certificate. ()

04. Operational Issues. The charter holder shall be responsible for promptly notifying its authorized chartering entity if it becomes aware that the school is not operating in compliance with the terms and conditions of its performance certificate. Thereafter, the charter holder shall also be responsible for advising its authorized chartering entity with follow-up information as to when, and how, such operational issues are finally resolved and corrected. ()

05. Articles of Incorporation and Bylaws. The charter holder shall be responsible for promptly notifying its authorized chartering entity of any revisions or amendments to the articles of incorporation or bylaws. ()

06. Required Documentation. Public charter schools shall ensure that the following documentation is

up to date and on file with the school's authorized chartering entity: a copy of the lease agreement for leased building(s) at which students will be taught; a copy of any notice from the school's accrediting body that the school has failed to meet or maintain full accreditation requirements; copies of any complaints filed against the school including, but not limited to, lawsuits and complaints filed with the Idaho professional standards commission relating to school employees; a current list of all school board members, including full name, address, telephone number, and resume must be on file with the Commission within five (5) business days of any changes; and any additional proof of compliance as reasonably requested by the authorizer. ()

301. AUTHORIZED CHARTERING ENTITY RESPONSIBILITIES.

01. Monitoring. Notwithstanding Section 300 of these rules, the authorized chartering entity of a public charter school shall be responsible for monitoring the public charter school's operations in accordance with all of the terms and conditions of the performance certificate, including compliance with all applicable federal and state education standards and all applicable state and federal laws, regulations, and policies. ()

02. Pre-opening Site Visit. Authorized chartering entities may conduct site visits to the physical location of the public charter school to verify the facility meets all state, local, and federal requirements for operating a public school. ()

03. Performance Certificate Review. Pursuant to Section 33-5209B, Idaho Code, an authorized chartering entity may renew a charter for a term of five (5) years or may nonrenew a charter following the initial operating term. Should an authorized chartering entity take no action to renew or nonrenew the charter, and the charter school has met all of the existing performance certificate targets, the charter school shall be provisionally renewed until such time as the chartering entity takes action. The five-year term of the renewed charter shall be based on the provisional renewal date. ()

302. CHARTER REVISIONS.

01. Request for Revision of Charter or Performance Certificate. The governing board of a public charter school that desires to revise its charter or performances certificate must submit a written request and the proposed revisions to the public charter school's authorized chartering entity. ()

02. Procedure for Reviewing Request for Charter or Performance Certificate Revision. The authorized chartering entity shall have seventy-five (75) days from the date of receipt of the written request and proposed revisions in which to issue its decision on the request for charter or performance certificate revision. The authorized chartering entity shall consider the request for charter or performance certificate revision at its next regular meeting following the date of receipt of the written request and proposed revisions, provided that the request and proposed revisions are submitted no fewer than thirty (30) days in advance of that meeting. If permitted by applicable policies and procedures adopted by the authorized chartering entity, the review of a request for a charter or performance certificate revision may be delegated to appropriate staff employed by the authorized chartering entity. An authorized chartering entity may, but is not required to, conduct a public hearing to consider the request for charter or performance certificate revision. ()

03. Approval of Proposed Charter or Performance Certificate Revision. If the authorized chartering entity approves the proposed charter or performance certificate revision, a copy of such revision shall be executed by each of the parties to the charter or performance certificate and shall be treated as either a supplement to, or amendment of, the final approved charter or performance certificate, whatever the case may be. ()

04. Denial of Proposed Charter or Performance Certificate Revision. If the proposed charter or performance certificate revision is denied, then the authorized chartering entity must prepare a written notice of its decision which shall contain all of the reasons for the decision. The public charter school may appeal the decision to the Board. The provisions of Section 403 shall govern the appeal. ()

303. REVOCATION.

An authorized chartering entity may revoke a charter in accordance with the procedure described in this Section if a public charter school has failed to meet any of the specific, written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified. ()

01. Written Notice of Intention to Revoke Charter. The authorized chartering entity must provide the public charter school with reasonable written notice of the intent to revoke the charter, which must include all of the reasons for such proposed action. In addition, such notice shall provide the public charter school with a reasonable opportunity to reply, which shall not be less than thirty (30) days after the date of such notice. ()

02. Public Hearing. The authorized chartering entity shall conduct a public hearing with respect to its intent to revoke a charter. Such hearing shall be held no later than thirty (30) days after receipt of such written reply. If the public charter school does not reply by the date set in the notice, then such hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorized chartering entity. ()

a. Written notification of the hearing shall be sent to the public charter school at least ten (10) days in advance of the hearing. ()

b. The public hearing shall be conducted by the authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with Section 67-5242, Idaho Code. ()

03. Charter Revocation. If the authorized chartering entity determines that the public charter school has failed to meet any of the specific written conditions for necessary improvements established pursuant to the provisions of Section 33-5209B(1), Idaho Code, by the dates specified, then the authorized chartering entity may revoke the charter. Such decision may be appealed to the Board. The provisions of Section 403 of these rules shall govern the appeal. ()

304. -- 400. (RESERVED)

401. APPEAL TO THE DEPARTMENT OF A DECISION RELATING TO THE FORMATION OF A NEW PUBLIC CHARTER SCHOOL OR CONVERSION OF A PUBLIC SCHOOL.
The following procedures govern appeals pursuant to Section 33-5207(1), Idaho Code. ()

01. Submission of Appeal. To institute an appeal, the petitioners/appellants shall submit a notice of appeal and request for public hearing in writing to the Department that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity that reviewed the petition. A copy of the notice of appeal shall be submitted to the authorized chartering entity, and with the Board. In addition, contemporaneous with the submission of the notice of appeal, the petitioners/appellants shall also submit to the Department copies of the complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: ()

a. The name, address, and telephone number of the person or persons submitting the appeal on behalf of petitioners/appellants, as well as the authorized chartering entity that issued the decision being appealed. ()

b. The complete petition that was submitted to the authorized chartering entity, including any amendments thereto or supplements thereof. ()

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the petition was considered or discussed. ()

d. All correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition from the date the original petition was submitted until the date the authorized chartering entity issued the decision being appealed. ()

e. The written decision provided by the authorized chartering entity to the petitioner. A copy of such notice of appeal shall be submitted to the authorized chartering entity whose decision is being appealed, and to the Board. ()

02. Hearing Officer. The Department shall hire a hearing officer to review the action of the authorized chartering entity and to conduct a public hearing, pursuant to Section 67-5242, Idaho Code. The Department shall forward to the hearing officer one (1) copy of the record provided by petitioners/appellants and attached to the notice of appeal within ten (10) business days of receipt. ()

03. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the hearing officer receives the notice of appeal and request for a public hearing submitted to the Department. ()

04. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time, place, and nature of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. ()

05. Prehearing Conference. The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. ()

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. Any party may request that a transcript of the recorded hearing be prepared, at the expense of the party requesting such transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. ()

07. Hearing Officer's Recommendation. The hearing officer shall issue a recommendation within ten (10) days after the date of the hearing. The recommendation shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the hearing officer; and a recommendation affirming or reversing the decision of the authorized chartering entity. The hearing officer shall mail or deliver a copy of the recommendation to the Department, the petitioners/appellants, and the authorized chartering entity. ()

08. Review of Recommendation by Authorized Chartering Entity. ()

a. The authorized chartering entity shall hold a public hearing to review the recommendation of the hearing officer within thirty (30) days of receipt of the recommendation. ()

b. Written notification of the scheduled public hearing shall be sent by the authorized chartering entity to the petitioners/appellants at least ten (10) days prior to the scheduled hearing date. ()

c. The authorized chartering entity shall make a final decision to affirm or reverse its initial decision within ten (10) days after the date the public hearing is conducted. ()

09. Reversal of Initial Decision. ()

a. If the authorized chartering entity reverses its initial decision and denies the conversion of a traditional public school to a public charter school, then that decision is final and there shall be no further appeal. ()

b. If the authorized chartering entity reverses its initial decision and approves the new public charter school, then the charter shall be granted and there shall be no further appeal. ()

10. Affirmation of Initial Decision. ()

a. If the authorized chartering entity affirms its initial decision to authorize the conversion of a traditional public school to a public charter school, then the charter shall be granted and there shall be no further appeal. ()

b. If the authorized chartering entity affirms its initial decision and denies the grant of a new public charter school, then the petitioners/appellants may appeal such final decision further to the Board in accordance with the procedure described in Section 402 of these rules. ()

402. APPEAL TO THE BOARD RELATING TO THE DENIAL OF A REQUEST TO FORM A NEW PUBLIC CHARTER SCHOOL.

01. Submission of Appeal. The petitioners/appellants shall submit a notice of appeal in writing with the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date the authorized chartering entity issues its final decision to deny a petition to form a new public charter school. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the petitioners/appellants shall also submit to the Board, a complete record of all actions taken with respect to the consideration of the public charter school petition. The record must be in chronological order, must be tabbed and indexed, and must contain, at a minimum, the following documents: ()

a. The complete record submitted to the Department, as provided in Subsection 401.01.a. through 401.01.e. of these rules. ()

b. A transcript, prepared by a neutral person whose interests are not affiliated with a party to the appeal, of the recorded public hearing conducted by the hearing officer, as described in Subsection 401.06 of these rules. ()

c. A copy of the hearing officer's recommendation. ()

d. Copies of audio or video recordings, if any, and the minutes of the public hearing conducted by the authorized chartering entity to consider the recommendation of the hearing officer, as described in Subsection 401.08.a. through 401.08.c. of these rules. ()

e. Copies of any additional correspondence between the petitioners/appellants and the authorized chartering entity relating to the petition subsequent to the public hearing conducted by the Department. ()

f. The final written decision provided by the authorized chartering entity to the petitioners/appellants. ()

g. No new evidence is permitted on appeal to the Board. ()

02. Public Hearing. A public hearing to review the final decision of the authorized chartering entity shall be conducted within a reasonable time from the date that the Board receives the notice of appeal, but not later than sixty (60) calendar days from such date. The public hearing shall be for the purpose of considering all of the materials in the record that were presented at prior proceedings. ()

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. ()

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may appoint a charter appeal committee composed solely of Board members, or a combination of Board members and Board staff, or a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. ()

05. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or appointed public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming or reversing the decision of the authorized chartering entity, or such other action recommended by the charter appeal committee or public hearing officer, such as remanding the matter back to the authorized chartering entity, or redirecting the petition to another authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. ()

06. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the petitioner/appellant and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board or by a charter appeal committee, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The final decision and order of the Board shall be sent to both the petitioners/appellants and the authorized chartering entity, and will not be subject to reconsideration. With respect to such written decision, the Board may take any of the following actions: ()

a. Approve the charter, if the Board determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the request. In the event the Board approves the charter, the charter shall operate under the jurisdiction of the Commission, as provided by Section 33-5207(6), Idaho Code. ()

b. Remand the petition back to the authorized chartering entity for further consideration with directions or instructions relating to such further review. If the authorized chartering entity further considers the matter and again denies the petition, then that decision is final and there shall be no further appeal. ()

c. Redirect the petition for consideration by the Commission, if the appeal is regarding a denial decision made by the board of trustees of a local school district. ()

d. Deny the appeal submitted by the petitioners/appellants. ()

403. APPEAL RELATING TO THE DENIAL OF A REQUEST TO REVISE A CHARTER OR PERFORMANCE CERTIFICATE OR A CHARTER NON-RENEWAL OR REVOCATION DECISION.
The following procedures shall govern an appeal relating to the denial of a request to revise a charter or a charter non-renewal or revocation decision. ()

01. Submission of Appeal. The public charter school shall submit a notice of appeal in writing to the Board that describes, in detail, all of the grounds for the appeal, and the remedy requested, within thirty (30) days from the date of the written decision of the authorized chartering entity to non-renew or revoke a charter or to deny a charter or performance certificate revision. A copy of the notice of appeal shall be submitted to the authorized chartering entity. In addition, contemporaneous with the submission of the notice of appeal, the appellant charter school shall also submit to the Board one (1) hard copy and one (1) electronic copy of the complete record of all actions taken with respect to the matter being appealed. The record must be in chronological order and must be appropriately tabbed and indexed. The record must contain, at a minimum, all of the following documents: ()

a. The name, address, and telephone number of the appellant public charter school and the authorized chartering entity that issued the decision being appealed. ()

b. Copies of all correspondence or other documents between the appellant public charter school and the authorized chartering entity relating to the matter being appealed. ()

c. Copies of audio or video recordings, if any, and the minutes from all meeting(s) where the matter on appeal was considered or discussed. ()

d. The written decision provided by the authorized chartering entity to the appellant public charter school. ()

e. No new evidence will be considered on appeal to the Board. ()

02. Public Hearing. A public hearing to review the decision of the authorized chartering entity shall be conducted within thirty (30) days after the date of the filing of the notice of appeal. ()

03. Notice of Hearing. All parties in an appeal shall be notified of a public hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The notice shall identify the time and place of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of the statutes and any rules involved; the issues involved; and the right to be represented. The notice shall identify how and when documents for the hearing will be provided to all parties. ()

04. Appointment of Charter Appeal Committee or Public Hearing Officer. The Board may, in its reasonable discretion, determine to appoint a charter appeal committee, composed solely of Board members, or a combination of Board members and Board staff, or alternatively, to appoint a public hearing officer, for the purpose of conducting the public hearing. If the Board determines not to make such an appointment, then the Board shall conduct the public hearing. ()

05. Prehearing Conference. The entity conducting the public hearing may, upon written or other sufficient notice to all interested parties, hold a prehearing conference to formulate or simplify the issues; obtain admissions or stipulations of fact and documents; identify whether there is any additional information that had not been presented to the authorized chartering entity; arrange for exchange of any proposed exhibits or prepared expert testimony; limit the number of witnesses; determine the procedure at the hearing; and to determine any other matters which may expedite the orderly conduct and disposition of the proceeding. ()

06. Hearing Record. The hearing shall be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of the hearing. Any party requesting a stenographic recording by a certified court reporter shall be responsible for the costs of same. The record shall be transcribed at the expense of the party requesting a transcript, and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. ()

07. Recommended Findings. If the public hearing is conducted by a charter appeal committee or appointed public hearing officer, then such committee or public hearing officer shall forward to the Board all materials relating to the hearing as soon as reasonably practicable after the date of the public hearing. If so requested by the Board, the entity conducting the public hearing may prepare recommended findings for the Board to consider. The recommended findings shall include specific findings on all major facts at issue; a reasoned statement in support of the recommendation; all other findings and recommendations of the charter appeal committee or public hearing officer; and a recommended decision affirming, or reversing the action or decision of the authorized chartering entity. A copy of the recommended findings shall be mailed or delivered to all the parties. ()

08. Final Decision and Order by the Board. The Board shall consider the materials forwarded by the entity conducting the public hearing, including any recommended findings of the charter appeal committee or appointed public hearing officer, as may be applicable, in a meeting open to the public at the next regularly scheduled meeting of the Board that occurs after the public hearing. If the public hearing was not conducted by the Board, then the Board may allow representatives for both the appellant public charter school and the authorized chartering entity an opportunity to deliver oral arguments to the Board advocating their respective positions, limited to thirty (30) minutes for each party. Whether the public hearing is conducted by the Board, or by a charter appeal committee or appointed public hearing officer, the Board shall issue a final written decision on such appeal within sixty (60) days from the date of the public hearing. The decision shall be sent to both the appellant public charter school and the authorized chartering entity. With respect to such written decision, the Board may take any of the following actions: ()

a. Grant the appeal and reverse the decision of the authorized chartering entity if the Board determines that the authorized chartering entity failed to appropriately consider the non-renewal or revocation of the charter, or the request to revise the charter or performance certificate, or that the authorized chartering authority acted in an arbitrary manner in determining to non-renew or revoke the charter, or in denying the request to revise the charter or performance certificate. ()

b. Deny the appeal filed by the appellants. ()

404. EX PARTE COMMUNICATIONS.

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, no party to the appeal nor any representative of any such party to the appeal, nor any person or entity interested in such appeal, may communicate, directly or indirectly, regarding any substantive issue in the appeal with the Board or the charter appeal committee or any hearing officer appointed to hear or preside over the appeal hearing, except upon notice and opportunity for all parties to participate in the communication. ()

405. -- 499. (RESERVED)

500. MISCELLANEOUS.

01. LEA Designations. Section 33-5203(7), Idaho Code, provides that the board of trustees of a school district may designate a public charter school it authorizes as an LEA, with the concurrence of the public charter school board of directors. In order to designate a public charter school as an LEA, the board of trustees of the school district must submit to the Department the following no later than February 1 in order for any such designation to be effective for the following school year: ()

a. Verification that the board of trustees is the authorized chartering entity of the public charter school it wishes to designate as an LEA. ()

b. Written documentation that the board of trustees of the school district and the board of trustees of the public charter school have agreed to the designation of the public charter school as an LEA. Such documentation shall be signed by representatives of both parties. ()

501. PROCEEDINGS BEFORE THE COMMISSION.

01. Communications with Commission. All written communications and documents intended to be part of an official record of decision in any proceeding before the Commission or any hearing officer appointed by the Commission must be filed with the individual designated by the Commission. Unless otherwise provided by statute, rule, order, or notice, documents are considered filed when received by the officer designated to receive them, not when mailed or otherwise transmitted. ()

502. -- 999. (RESERVED)

IDAPA 08 – STATE BOARD OF EDUCATION
08.03.01 – RULES OF THE PUBLIC CHARTER SCHOOL COMMISSION
DOCKET NO. 08-0301-2201 (ZBR CHAPTER REPEAL)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 33-105, and chapter 52, title 33, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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 accordance with [Executive Order 2020-01](#), this rulemaking is the result of a review of the chapter for evaluation on how it can be improved, simplified, and streamlined. IDAPA 08.03.01 is being repealed in its entirety. Provisions that are not duplicative of IDAPA 08.02.04 are being moved to IDAPA 08.02.04.

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

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: None

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2022 Idaho Administrative Bulletin, [Volume 22-7, page 92](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tracie Bent at (208)332-1582 or tracie.bent@osbe.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 2nd day of September, 2022.

Tracie Bent
Chief Planning and Policy Officer
State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)332-1582
fax: (208)334-2632

IDAPA 08.03.01 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.01 – RULES GOVERNING THE IDAHO STATE RACING COMMISSION

DOCKET NO. 11-0401-2201 (NEW ZBR CHAPTER, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under Executive Order 2020-01, Zero-Based Regulation, the Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking consolidates the rules to comply with governing statutes and [Executive Order 2020-01: Zero-Based Regulation](#).

FEE SUMMARY: The following identifies the fee(s) or charge(s) imposed or increased through this rulemaking:

This rulemaking does not impose a new fee or charge, or increase an existing fee or charge, beyond what has been previously approved by the Idaho Legislature. Below is a fee table from Section 090 of this rule chapter:

LICENSE	FEE	LICENSE	FEE
Add-ons	- \$10	Office Personnel	- \$15
Admission	- \$15	Official	- \$50
Announcer	- \$25	Outrider	- \$25
Apprentice Jockey	- \$50	Owner	- \$50
Assistant Starter	- \$25	Owner/Trainer	- \$65
Authorized Agent	- \$50	Paddock Judge	- \$25
Chart Person	- \$25	Photographer	- \$25
Clerk of Scales	- \$25	Plater	- \$50
Clocker	- \$25	Pony Person	- \$25
Concession Employee	- \$15	Racing Secretary	- \$35
Concessionaire	- \$50	Stable Registration	- \$50
Duplicate	- \$10	Stall Superintendent	- \$25
EMT	- \$25	Starter	- \$25
Exercise Person	- \$25	State Veterinarian	- \$0

LICENSE	FEE	LICENSE	FEE
Groom	- \$25	Tote Employee	- \$15
Horsemen's Bookkeeper	- \$35	Track Security	- \$25
Identifier	- \$25	Track Superintendent	- \$25
Jockey	- \$50	Trainer	- \$50
Jockey Agent	- \$50	Valet	- \$10
Jocks Room Custodian	- \$25	Veterinarian	- \$50
Maintenance	\$15	Vet Assistant	- \$15
Mutuel Employee	- \$15	Video Employee	- \$15

The fees or charges are being imposed pursuant to Sections 54-2506, 54-2608, 54-2512, and 54-2515, 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:

There is no fiscal impact to the general fund associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents being incorporated by reference as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 30th day of August, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
700 S Stratford Dr
Meridian, Idaho 83642
(208) 884-7004
Bill.Gardiner@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 11-0401-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

11.04.01 – RULES GOVERNING THE IDAHO STATE RACING COMMISSION

SUBCHAPTER A: GENERAL PROVISIONS
(Sections 000-199)

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. ()

001. SCOPE.

These rules govern the Idaho State Racing Commission, the definitions defined govern the Idaho State Racing Commission, the licensing procedures and the fees charged for licenses by the Idaho State Racing Commission, the controlled substance and alcohol testing of licensees and applicants by the Idaho State Racing Commission, the disciplinary hearings and appeals in the State of Idaho, the conduct and licensing of racing associations, govern the Racing Officials of the Idaho State Racing Commission, govern the conduct of Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents in Idaho, governs the practices of veterinarians licensed by the Racing Commission, permitted medication of horses and drug testing of horses by the Idaho State Racing Commission, rules govern the running of live horse races in Idaho, describes the procedures and requirements for the claiming of horses and the conduct of claiming races, govern Pari-mutuel wagering in the State of Idaho, regulate simulcasting within Idaho and all aspects of simulcasting, and rules governing advanced deposit wagering in Idaho. ()

002. -- 004. (RESERVED)

SUB AREA A1: RULES GOVERNING THE IDAHO STATE RACING COMMISSION
(Sections 005-019)

005. GENERAL AUTHORITY.

01. Racing Commission to Regulate Races and Participation. The Racing Commission will regulate each race meet and the persons who participate in each race meet. ()

02. Racing Commission to Regulate Simulcast and Advance Deposit Wagering. The Racing Commission will license and regulate all simulcast operators and activities and advance deposit wagering and activities. ()

006. COSTS AND ANNUAL REPORT.

01. Audited and Approved. Costs necessary to administer the Racing Commission will be audited and approved by the Racing Commission. ()

007. MEETINGS.

The Racing Commission will meet at the call of the chair or a majority of the members, or as otherwise provided by statute. Notice of the meetings will be given and the meetings conducted in accordance with Idaho's Open Meeting Act, Section 67-2340 through 67-2347, Idaho Code. ()

008. HORSEMEN'S GROUP.

For purposes of these rules, whichever group was the recognized horsemen's group in 2004 is hereby designated as the existing horsemen's group. ()

01. Decertifying an Existing Horsemen's Group - Notice of Intent and Petition. Upon the filing with the Racing Commission of a notice of intent to decertify an existing horsemen's group by an alternate horsemen's group, the alternate horsemen's group has no more than six (6) months from the date of filing to acquire, on a petition, the signatures of twenty-five percent (25%) of the existing horsemen's group's licensed members.

- ()
- a. Contents of Notice. The notice of intent needs to contain the following: ()
 - i. The name of the alternate horsemen's group; ()
 - ii. The names of the principals of the horsemen's group; ()
 - iii. The date of filing; ()
 - iv. The articles of incorporation and bylaws; and ()
 - v. A copy of the petition as it will be circulated. ()
 - b. No more than one (1) petition by any alternate horsemen's group to decertify an existing horsemen's group will be circulated at any given time. ()
 - c. In addition, the alternate horsemen's group must submit the names of a minimum of fifty (50) members who are Idaho licensed owners or trainers. ()

02. Racing Commission's Receipt of Petition. Upon receipt of a petition that meets the criteria set forth in Subsection of these rules, the Racing Commission will consider the petition and will validate the signatures found on said petition. Validation includes, but is not limited to, verification of current Idaho licensed owners and trainers and signature verification. ()

a. If the validated signatures do not meet the requirements of these rules, the Racing Commission will notify the alternate and the existing horsemen's groups that no further action will be taken on the petition. ()

03. Validating Signatures, Setting of Election Date, Conducting an Election. ()

a. If the validated signatures are found to meet these requirements, the Racing Commission will set the date for the election prior to the next regularly scheduled meeting. ()

b. A representative of the alternate horsemen's group must appear to answer any questions at the meeting at which signatures are validated. ()

c. The existing horseman's group must conduct an election among the licensed members and report the results to the Racing Commission. ()

d. A deciding vote of fifty percent plus one (50% + 1) of the ballots returned must be used to determine the one organization to be recognized as the horsemen's group, absent clear and convincing evidence that the election was fraudulent. ()

04. Good Cause. Except for good cause, the Racing Commission will not conduct an election within eighteen (18) months of a prior election among the existing group's licensed members. ()

009. (RESERVED)

010. PROHIBITED ACTS.

The Commissioners and Racing Commission employees cannot: ()

01. Financial Interest. Own a financial interest in a racing association or simulcast operation located in Idaho. ()

02. Accept Remuneration. Accept remuneration from a racing association or simul-cast operation located in Idaho. ()

03. Owner, Lessor or Lessee. Be an owner, lessor or lessee of a horse or a mule that is entered in a race at a licensed race meet in Idaho. ()

04. Wager. Commissioners and Racing Commission employees cannot wager in any pari-mutuel pool at any facility or through any pari-mutuel system in the State of Idaho. ()

011. POWER OF ENTRY.

Members of the Racing Commission will have the right to enter and inspect any part of the grounds and facilities of the racing association or simulcast operator. ()

012. EXCLUSION.

The Racing Commission may order an individual excluded from all or part of any racing association or simulcast operator's grounds under the statutory jurisdiction of the Racing Commission if the Board of Stewards or judges or Business Operations Manager, or ISP designee of the Racing Commission determine that: ()

01. Deemed to Be Detrimental. The individual is deemed to be detrimental to the best interest of racing or is in violation of Section 54-2509, Idaho Code, or these rules. ()

02. Honesty and Integrity. The individual's presence on a racing association or simulcast operator's grounds is inconsistent with maintaining the honesty and integrity of racing. ()

013. ALLOCATION OF RACE DAYS AND RACES.

The Racing Commission is the sole judge of the number of race days and races for which each racing association is licensed. ()

014. PUBLIC HEALTH OR SAFETY HAZARD.

Nothing in these rules is intended to require race days and races to be held if it constitutes a public health or safety hazard. ()

015. CANCELLATION OF RACE DAYS OR RACES.

Racing days or races within a racing day specified on a racing association's license may be cancelled under the following conditions: ()

01. Conditions. Conditions at the racing facility constitute a health or safety hazard for people using the facility. ()

02. Inclement Weather. Inclement weather or track conditions constitute a health or safety hazard for track personnel or horses entered to race. ()

03. Approved Cancellation. The Racing Commission approved the cancellation due to a health or safety hazard. ()

04. Advanced Approval. Races cancelled for any reason other than a health or safety hazard need to be approved in advance by the Racing Commission. ()

05. Rescheduling Cancelled Races. The Racing Association will make a good-faith effort to reschedule cancelled races. ()

016 – 019. (RESERVED)

SUB AREA A2: DEFINITIONS
(Sections 020-029)

020. DEFINITIONS: A THROUGH I.

In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: ()

01. Account. An account for advanced deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by the advanced deposit

- wagering operator. ()
- 02. Account Holder.** A natural person who successfully completed an application and for whom the advance deposit wagering operator has opened an account. ()
- 03. Act.** The Idaho Racing Act, Section 54-2501, Idaho Code. ()
- 04. Admissions.** A racing association employee who collects admission money for entrance to the racetrack. ()
- 05. Advance Deposit Wagering Operator.** Those persons or entities licensed by the Idaho State Racing Commission with the authority to accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts. ()
- 06. Advanced Wagering.** Wagering before a scheduled post time for the first contest of a performance. ()
- 07. Alcohol.** The intoxicating agent in beer, wine, or liquor, as the terms are defined in Title 23, Idaho Code, and includes ethyl, methyl, and isopropyl alcohols. ()
- 08. Appeal.** A request for the Racing Commission or its designee to investigate, consider and review any decision or rulings of the Board of Stewards of a meeting. ()
- 09. Applicant.** Any person who has applied to the Racing Commission for a license. ()
- 10. Appointment.** A person approved by the Racing Commission or its designee, for an official racing position. ()
- 11. Approval.** Acceptance of a racing official's eligibility by the Racing Commission or its designee. ()
- 12. Announcer.** A person employed by a racing association to announce during the running of the races. ()
- 13. Assistant Starter.** The employee of a racing association who, under direct supervision of the starter, helps place the starting gate for a race, leads horses into the gate, helps jockeys and handles horses while in the gate until the start. ()
- 14. Authorized Agent.** A person appointed by a written instrument signed and acknowledged before a notary public empowered to transact the business of a stable owner or horse breeder. ()
- 15. Authorized User.** A person authorized by the Racing Commission to receive, decode, and use for legal purposes the encrypted simulcast signal of pari-mutuel events. ()
- 16. Bleeder.** Is any horse, which exhibits symptoms of epistaxis and/or respiratory tract hemorrhage. ()
- 17. Bleeder List.** A list maintained by the commission veterinarian with all horses that have demonstrated external evidence of exercise induced pulmonary hemorrhage from one (1) or both nostrils during or after a race or workout. ()
- 18. Bookmaker.** A person who makes a business of accepting the bets of others on the outcome of any sports contest including horse racing. ()
- 19. Breakage.** ()
- a.** The odd cents rounded down to the lowest multiple of ten cents (\$.10) in a positive pool and down

- to the lowest multiple of five cents (\$.05) in a minus pool. ()
- b. The net pool minus the payout. ()
20. **Breed Association.** A group organized under Idaho law to receive breeder awards. ()
21. **Breeder.** Breeder of a horse is determined by the definition of breeder used by the registry of the particular breed of that horse. ()
22. **Bribe.** Anything of value not limited to money. ()
23. **Burden of Proof.** The obligation to establish by the preponderance of the evidence that a violation of statute or rules occurred. ()
24. **Calendar Year.** A calendar year beginning January 1 and ending December 31. ()
25. **Certificate of Registration.** A physical or digital document identifying a horse, its breeding and registry issued by the recognized breed registry. ()
26. **Chairman.** The presiding officer of the Racing Commission. ()
27. **Chart Person.** An official who compiles the statistical “picture” of a race which shows the position and margin of each horse at designated points of call during the race and other data. ()
28. **Chemical.** A substance composed of chemical elements or obtained by chemical processes. ()
29. **Claimant.** A person who has successfully claimed a horse in a claiming race. ()
30. **Claimed.** A horse that has been properly purchased under these rules. ()
31. **Claiming Race.** A race in which any horse entered therein may be claimed in conformity with the rules. ()
32. **Clerk of Scales.** The employee of a racing association responsible for sequestering all jockeys each racing day, weighing all jockeys out and in from races, checking their assigned riding weights versus their actual weights, and reporting all changes. ()
33. **Clocker.** A person who times workouts and races. ()
34. **Colt.** An intact male horse under five (5) years of age. ()
35. **Commissioner.** One (1) of the three (3) members of the Idaho State Racing Commission. ()
36. **Commission Veterinarian.** A racing Commission appointed veterinarian having authority to enforce the Racing Commission’s rules relating to veterinary practices. ()
37. **Common Pool Wagering.** The inclusion of wagers placed at guest association locations and secondary pari-mutuel organizations into a common pari-mutuel pool for the purpose of display of wagering information and calculation of payoffs on winning wagers. ()
38. **Complaint.** A written allegation of a violation of these rules. ()
39. **Concessionaire.** A person that offers goods or services for sale to the public at a race-track. ()
40. **Concession Employee.** An employee of a concessionaire or a racing association employee offering goods or services for sale to the public. ()

41. **Conditions.** Qualifications which determine a horse’s eligibility to be entered in a race. ()
42. **Confidential Information.** Confidential information includes: ()
- a. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder’s account; ()
- b. The amount of money wagered by a particular account holder on any race or series of races; ()
- c. The account number and secure personal identification code of a particular account holder; ()
- d. The identities of particular entries on which the account holder is wagering or has wagered; ()
- e. Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the advance deposit wagering operator that would identify the account holder to anyone other than the Racing Commission. ()
43. **Contest.** A competitive racing event or competition between horses in which pari-mutuel wagering is conducted. ()
44. **Continuance.** Postponement of adjudicatory proceedings to a future date. ()
45. **Controlled Substance.** A drug, substance, or immediate precursor listed in schedules I through V of Article II of Title 37, Chapter 27, Idaho Code. ()
46. **Costs.** Charges and expenses reasonably necessary to carry out the business of the Racing Commission. ()
47. **Coupled Entries.** Two (2) or more horses which are entered or run in a race and are coupled because of common ties or ownership. ()
48. **Credits.** All positive inflow of money to an account. ()
49. **DMSO.** Dimethyl Sulfoxide. ()
50. **Daily Double.** A daily double requires the selection of the first-place finisher in two (2) consecutive races. ()
51. **Daily Program.** The published listing of all contests and contestants for a specific performance. ()
52. **Dead Heat.** The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. ()
53. **Declaration.** The act of withdrawing an entered horse from a race before the closing of overnight entries. ()
54. **Debits.** All negative outflow of money from an account. ()
55. **De Novo Hearing.** To have the matter heard anew. ()
56. **Deposit.** A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder’s account. ()

57. **Digital Tattoo.** Is a digital certification, which is attached to the horse's registration certificate in the recognized breed registry that validates the horse's identification. This digital tattoo is accessible through the scan of the horse's microchip or other unique identifier as authorized by the recognized breed registry. ()
58. **Disciplinary Action.** A process for dealing with behavior that violates the provisions of these rules. ()
59. **Disqualification.** Interference or a foul determined by the Board of Stewards in a contest that may result in an adjustment to the offending entrants finish position. ()
60. **Disqualified Person.** A person whose license is suspended. ()
61. **Drug.** Any chemical compound or any noninfectious biological substance not used for its mechanical properties, which may be administered to or used on or for patients, either human or animal, as an aid in diagnosis, treatment or prevention of disease or other abnormal condition, for the relief of pain or suffering, or to control or improve any physiological or pathological condition. ()
62. **Downlink.** A receiving antenna coupled with an audio-visual signal receiver that is compatible with and capable of receiving simultaneous audio-visual signals or data emanating from a host association. This includes the electronic transfer of received signals from the receiving antenna to TV monitors within the satellite facility. ()
63. **Eligible.** A horse that is qualified to run in a race under these rules. ()
64. **Eligible Person.** A licensed owner, licensed trainer or authorized agent who has been properly authorized to claim a horse. ()
65. **Emergency Medical Technician.** An emergency responder trained and certified to provide emergency medical services to the critically ill and injured person. ()
66. **Enclosure, Enclosure-Public.** Includes all enclosed areas of the simulcast wagering facility. ()
67. **Encryption.** The scrambling or other manipulation of the audio-visual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal. ()
68. **Engagements.** Is the obligation of a Jockey or a horse to participate in a race. ()
69. **Entrance Money Records.** A record showing all monies due and paid prior to entry of a contest. ()
70. **Entries.** A list of horses entered in a race. ()
71. **Entry.** Means, according to the requirements of the text: ()
- a. A horse made eligible to run a race. ()
- b. Two (2) or more horses that are entries or run in a race and are coupled because of common ties or ownership. Where two (2) or more horses owned by separate owners but trained by the same Trainer are entered in the same race, the horses may run as separate betting interests. ()
72. **Equipment.** As applied to a horse means whips, blinkers, tongue straps, muzzle, nose- bands, bits, shadow rolls, martingales, breast plate, bandages, boots, hoods, flipping halters, goggles and plates. ()
73. **Evidence.** Data presented in proof of the facts in issue, and which may include the testimony of witnesses, records, documents, or objects. ()

74. **Exacta.** The Exacta requires selection of the first two (2) finishers, in their exact order, for a single contest. ()
75. **Exclusion.** The act of preventing a person from entering or remaining on the grounds of any racing association or simulcast facility under the jurisdiction of the Racing Commission. ()
76. **Exercise Person.** A rider who exercises horses at a racetrack. ()
77. **Filly.** A female horse that has not reached five (5) years of age. ()
78. **Forfeit.** Money due because of an error fault, neglect of duty, breach of contract or a penalty. ()
79. **Foul.** A violation, by a jockey or horse, of these rules during a race. ()
80. **Gelding.** An altered male horse of any age. ()
81. **Gifts.** Anything of value not limited to money. ()
82. **Gratuities.** Anything of value not limited to money. ()
83. **Groom.** A person hired by a trainer who cares for a horse at a racetrack. ()
84. **Grounds.** Any area owned or leased by any licensed Association, Corporation, or Race Track which is operated for the purpose of conducting pari-mutuel racing. ()
85. **Guest Association.** A racing association approved to offer simulcast races and pari-mutuel wagering on races conducted at other racetracks. ()
86. **Handbook.** A method of soliciting and recording wagers on the outcome of a sports contest including a horse race. ()
87. **Handicap.** A weight adjustment for entered horses for the purpose of equalizing the respective changes of winning. ()
88. **Handle or Gross Handle.** Total amount of money wagered on a race less refunds and cancels. ()
89. **Hearing Officer.** An official appointed by the Idaho State Racing Commission to conduct an investigation or administrative hearing so that the agency can exercise its statutory powers. ()
90. **Horse.** Includes filly, mare, colt, horse or gelding in general; when referring to sex, filly becomes a mare when five (5) years old; a horse is an intact male when five (5) years old or older. ()
91. **Horse Identifier.** A person who is responsible for positively identifying all horses entered to a race, stabled or on racing association grounds. ()
92. **Horseman's Agreement.** An agreement approved by the Racing Commission between the Racing Association and the authorized horsemen's group. ()
93. **Horsemen's Bookkeeper.** A bonded racing association employee who manages the horsemen's accounts which covers all monies due horseman in regards to purses, stakes, rewards, claims and deposits. ()
94. **Host or Host Association.** The racing association conducting a licensed horse racing meeting when it is authorized by the Racing Commission to simulcast its racing program. It may also be considered the sending track which means any track from which simulcast signals originate. ()

95. Hub. A facility that acts as an intermediary between pari-mutuel wagering facilities for the transmission of wagering data and that is responsible for generating all reports necessary for the reconciliation of payments. ()

96. Hypodermics. Any hypodermic instrument, hypodermic syringe or hypodermic hollow needle used for injection of substances into the body of a horse. ()

97. Idaho Bred. A foal dropped by a mare in Idaho. ()

98. Identifier. The employee of a racing association who checks the lip tattoo, other identification, and markings of each horse as it enters the paddock to make sure the correct horses are running in the race. ()

99. Independent Real Time Monitoring System. A system approved by the Racing Commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutual system and which transmits transactional level data to a wagering security database. ()

100. Ineligible or Undisclosed Person. A person that is not eligible to be licensed or a person who has not been properly authorized to claim a horse. ()

101. In-foal. A filly or mare that is pregnant. ()

102. Inspection of Horses. A veterinarian inspection to assess the racing condition of every horse entered in an official race. ()

103. Intrastate Simulcasting Wagering. Pari-mutuel wagering at an Idaho guest association on Idaho horse racing events run at an Idaho host association. ()

021. DEFINITIONS: J THROUGH S.

In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: ()

1. Jockey. Is a race rider whether a licensed jockey, apprentice or amateur rider. ()

2. Jockey Agent. A person who helps a jockey obtain mounts in return for a portion of the jockey's earnings. ()

3. Jockey's Fees. The approved amount of money a Jockey receives for riding in a race. ()

4. Jockey's Room. A room reserved for jockeys to prepare for a race. ()

5. Jocks Room Custodian. A racing association employee authorized to regulate the conduct of the jockeys, ensure good order is maintained, and monitors the jockeys. ()

6. Jostle. To bump, push or shove. ()

7. Jurisdiction. The limits or territory within which Racing officials' authority may be exercised. ()

8. License. A permission granted by the Racing Commission to engage in any regulated activity. ()

9. Licensed Authorized Agent. A person licensed by the Racing Commission and appointed by a written instrument, signed, and acknowledged before a notary public by the owner in whose behalf the agent will act. ()

10. Licensee. Any person or entity holding a license from the racing Commission to engage in racing

or regulated activity. ()

11. Live Event Host. A licensed racing association where live racing is conducted and on which pari-mutuel wagering is conducted by guest associations or secondary pari-mutuel organizations. ()

12. Maiden. A horse that has never won a race on the flat in a state or country where racing is supervised by a legalized Racing Commission or board and where the races are covered by the Racing Form, American Quarter Horse chart books, the Appaloosa Horse Club chart books, the Paint Horse chart books and the Arabian Horse chart books. A maiden that has been disqualified after finishing first is still a maiden. ()

13. Maintenance. A racing association employee hired to maintain the grounds and facility of the racetrack. ()

14. Mare. A female horse that has reached the age of five (5) years. ()

15. Medical Professional. A doctor, physician’s assistant, or emergency medical technician licensed or certified in the state of Idaho. ()

16. Medication Report Form. A form signed by the treating veterinarian disclosing the identity of the horse, the permitted drug being used with dosage or procedure administered, the time administered and the name of the trainer. ()

17. Meet. The entire consecutive period for which a license to race has been granted to any- one (1) association by the racing commission. ()

18. Minus Pool. When the amount of money to be distributed on winning wagers is in excess of the amount of money comprising the net pool. ()

19. Motions. A request for a steward or racing commission to make a decision. ()

20. Month. A calendar month. ()

21. Mutual Employee. A racing association employee that accepts the patrons’ money and issues the betting ticket. ()

22. Natural Person. Any person at least eighteen (18) years of age, but does not include any corporation, partnership, limited liability company, trust, or estate. ()

23. Nerved. A surgical procedure in which the nerve supply to the navicular area is removed. The toe and remainder of the foot have feeling. ()

24. Nerved Horses. A horse that has had posterior digital neurectomy (heel nerving) surgery. ()

25. Nomination. Is the naming of a horse to a certain race or series of races. ()

26. Nominator. A person in whose name a horse is entered for a race. ()

27. Notice. A written or printed announcement from Board of Stewards or the Racing Commission. ()

28. Objection. A verbal claim of foul in a race lodged with the Board of Stewards or their designee by the horse’s jockey, trainer, owner or the owner’s authorized agent before the race is declared official. ()

29. Odds. Number indicating amount of profit per dollar to be paid to holders of winning pari-mutuel tickets. ()

30. Office Personnel. A racing association employee who works in the office of the racetrack. ()

31. **Official.** Person licensed by the state to ensure the rules of racing are enforced. ()
32. **Official Results.** The finish of the race as declared by the Stewards. ()
33. **Order of finish.** The order of finish of the contestants in a contest as declared official by the Board of stewards/judges. ()
34. **Outrider.** The employee of a racing association who leads the post parade at a racetrack and gets the horses and jockeys to the starting gates on time. ()
35. **Overnight Race.** A race for money or any other prize to which the Owners of the horses do not contribute. ()
36. **Owner.** The person that has legal title to, or has financial control of, a horse utilized for racing in Idaho. However, an interest in the winnings of a horse does not itself constitute ownership. ()
37. **Owner/Trainer.** An owner who conditions and prepares his own horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the racehorse. ()
38. **Paddock.** An enclosure in which horses scheduled to compete in a contest are saddled prior to racing. ()
39. **Paddock Judge.** The employee of a racing association responsible for getting jockeys and horses in order to go to the starting gate; also checks the equipment used by each horse and supervises the saddling of the horses. ()
40. **Paddock Judge's List.** A list of horses which may not be entered in a race for safety reasons. ()
41. **Pari-Mutuel Cash Voucher.** A document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system. ()
42. **Pari-Mutuel Pool Host.** A racing association that operated and controls access of guest associations or secondary pari-mutuel organizations to, a pari-mutuel pool. ()
43. **Pari-Mutuel System.** The hardware, software and communications equipment used to record wagers, calculate payouts for winning wagers, and transmits wagering transactions and pari-mutuel pool data for display to patrons and to communicate with other pari-mutuel systems linked to facilitate common pool wagering. ()
44. **Pari-Mutuel Ticket.** A document printed or record produced by a pari-mutuel system device on which is represented a pari-mutuel wager or wagers that have been authorized and accepted for purposes of participation in a pari-mutuel pool. ()
45. **Pari-Mutuel Wagering.** A form of wagering on the outcome of an event in which all wagers are pooled and held by an pari-mutuel pool host for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning contestants. ()
46. **Patrol Judge.** A person who observed a race and reports information concerning the race to the Board of Stewards. ()
47. **Payout.** Money disbursed after a race is official. ()
48. **Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the

- subject of rights and duties. ()
49. **Photo Finish.** A requested photo to help in determining the correct order of finish. ()
50. **Photographer.** A person who takes photographs of the winning horses in the winner’s circle. ()
51. **Pick (n).** The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. ()
52. **Place Pool.** The total amount wagered on a specific entry to finish second in a race. ()
53. **Place.** Mean first, second, or third and in that order is called “Win”, “Place”, “Show”. ()
54. **Placing Judge.** A person who determines the order of finish in a race as the horses pass the finish line. ()
55. **Plater.** A blacksmith who shoes horses at a racetrack. ()
56. **Pony Person.** A person on horseback who accompanies a horse and jockey to the starting gate. ()
57. **Post Position.** The starting position assigned. ()
58. **Post Time.** The time set for the arrival at the starting point. ()
59. **Preference System.** A method used by the Racing Secretary to determine the order of qualification for a race. ()
60. **Presiding State Steward.** One (1) of the three (3) stewards appointed by the Racing Commission who presides over hearings and designated duties for the other stewards. ()
61. **Primary Laboratory.** A laboratory approved by the Racing Commission to conduct testing and official analysis of post-race samples. ()
62. **Principal Residence Address.** That place where the natural person submitting an application for an account resides at least fifty percent (50%) of the time during the calendar year. ()
63. **Prohibited Substances.** Is any drug, chemical, or other substance which, when administered to a horse can create a change in the normal physiological performance of the horse's racing ability, including: ()
- a. stimulants or depressants or other substances as defined by the association of racing commissioners international; or ()
 - b. that may interfere with testing procedures; or ()
 - c. that is a therapeutic medication present in excess of established acceptable levels; or ()
 - d. that is present in the horse in excess of levels that could occur naturally; or ()
 - e. that is a substance specified by rule that is not allowed to appear in an out of competition or hair sample. ()
64. **Proper Identification.** A form of identification accepted in the normal course of business to establish that the person making a transaction is the account holder. ()
65. **Protest.** A written complaint made to the Board of Stewards concerning a horse entered in a race

and filed no later than one (1) hour prior to the scheduled post time of the first race on the day in which the questioned horse is entered. ()

- 66. **Purse.** The total dollar amount for which a race is contested. ()
- 67. **Purse Race.** A race for money or any other price to which the owners of the horses do not contribute. ()
- 68. **Quorum.** Two (2) or more members of the Racing Commission. ()
- 69. **Quinella.** The Quinella requires selection of the first two (2) finishers, irrespective of order, for a single contest. ()
- 70. **Quinella Double.** The Quinella Double requires selection of the first two (2) finishers, irrespective of order, in each of two (2) specified contests. ()
- 71. **Race Day.** Any period of twenty-four (24) hours beginning at midnight and including in the period of a race meeting and in the matter of penalties the word “DAY” means a “CALENDAR DAY.” ()
- 72. **Race Meet.** ()
 - a. The number of races and race days approved by the Racing Commission in the Racing Association license. ()
 - b. or as stated in Idaho Code 54-2502(11). ()
- 73. **Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. ()
- 74. **Racing Colors.** Racing silks, the jacket and cap worn by Jockeys. Silks can be generic and provided by the track or specific to one (1) Owner. ()
- 75. **Racing Dates.** The number of racing dates authorized by the Racing Commission in a Racing Association License. ()
- 76. **Racing Condition.** The physical ability to race of a horse determined by the commission veterinarian. ()
- 77. **Racetrack.** The grounds and enclosures of any racing association where horse racing or pari-mutuel betting occurs under the authority and supervision of the Racing Commission. ()
- 78. **Racing Interest.** Any individual owner or any partnership of owners or corporations or any registered stable, but not including a lessee, which participates as an owning entity or nominator of a racehorse. A licensed owner may participate in more than one (1) racing interest. ()
- 79. **Racing Secretary.** The employee of a racing association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. ()
- 80. **Reasonable Suspicion.** Behavior or pattern of behavior indicates that the licensee or applicant is under the influence of a controlled substance or alcohol. The basis of the suspicion may be a specific, contemporaneous event or conduct that has been observed over a period of time. ()
- 81. **Recognized Race Meet.** is an entire period of allocated days that an association which is issued a racetrack license, is authorized by the commission to conduct live racing. For purposes of this rule, the commission shall determine the beginning and end dates of the race meet as well as the dates in which live racing will be conducted within the determined allocated days. ()

- 82. Records.** A daily log kept by the presiding steward of the stewards' official activities. Also, an accounting of each horse, owner, trainer, or jockey participating at a race meet who had funds due or on deposit in the horsemen's account completed by the Horsemen's Bookkeeper's. ()
- 83. Referee Laboratory.** Laboratory approved by the Racing Commission to conduct split sample testing. ()
- 84. Reports.** A daily account of the stewards' actions and observations made during each day's race program. ()
- 85. Ringer.** In addition to the definitions expressed in these rules, means any horse which runs under the name and identity of another or under a fictitious name. ()
- 86. Ruled Off.** An action by the racing stewards, under these rules, to suspend a license for a violation of these rules. ()
- 87. Ruling.** An official decision by the Board of Stewards stating the charges against the licensee. ()
- 88. Samples.** Is a portion of any bodily substance or fluid, including but not limited to, tissue, hair, blood, urine, or any other acceptable specimen obtained from a horse at the direction of the commission for the purposes of determining the presence of a prohibited substance. ()
- 89. Satellite Transponder, Transponder.** Is a device in a space satellite that is capable of receiving signals from a satellite dish and immediately retransmitting those signals for reception by a satellite dish. ()
- 90. Safety Equipment.** Any safety equipment to be worn as specified by these rules. ()
- 91. Scratch.** The act of withdrawing an entered horse from the race after closing of overnight entries. ()
- 92. Scratched Horse.** A horse that is withdrawn from a race after the betting has begun. ()
- 93. Scratch Time.** The time set by the Racing Association for the closing of applications for permission to withdraw from the races of that day. ()
- 94. Secondary Pari-Mutuel Organization.** An entity other than a licensed racing association that offers and accepts pari-mutuel wagers. This may include an off-track wagering system or an account wagering system. ()
- 95. Secure Personal Identification Code.** An alpha-numeric character code chosen by an account holder as a means by which the advance deposit wagering operator may verify a wager or account transaction as authorized by the account holder. ()
- 96. Show Pool.** The total amount wagered on a specific entry to finish third in a race. ()
- 97. Simulcast Facility.** The physical premises, structure and equipment utilized by a guest or host association for conducting pari-mutuel wagering on horse racing events and permitted pari-mutuel events. Such facility must be a part of the license granted to the guest or host association. ()
- 98. Simulcast Operator.** A simulcast licensee authorized by the Racing Commission to offer, sell, cash, redeem or exchange pari-mutuel tickets on races being run at a host association. ()
- 99. Simulcast Service Supplier.** ()
- a.** A person engaged in providing service, supplies or equipment necessary to the operation of

intrastate, interstate or out-of-state simulcast wagering for use by a host association, guest association, simulcast operator, or authorized user, including pari-mutuel wagering terminals, uplink, downlink, television receivers and related equipment. ()

b. It does not include persons authorized by the Federal Communications Commission to provide telephone service or space segment time on satellite transponders. ()

100. Source Market Fee. That part of a wager, made outside of the state by an Idaho resident, that is returned to the Racing Commission. ()

101. Sound. A horse that is in competitive racing condition. ()

102. Split Sample. A blood, urine, saliva, hair, or any other acceptable specimen taken from a horse that is greater than the minimum sample requirement. ()

103. Stable. All the racehorses belonging to a particular owner. ()

104. Stable Name. An assumed business name used by a person for his horse racing operation. ()

105. Stake Race. A race to which nominators of the engaged entries contribute to a purse; to which money, or any other award, may be added; but no overnight race, regardless of its conditions, may be deemed a stake race. ()

106. Stalls. Stable area on racing association grounds for horses assigned by the racing secretary. ()

107. Stall superintendent. A racing association employee hired to assign applicants such stabling as deemed proper to be occupied by horses in preparation for racing and determines all conflicting claims to stable space. ()

108. Starter. ()

a. The employee of a racing association responsible for dispatching the horses for a race; ()

b. The horse is a “starter” for a race when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses. ()

109. Starter Allowance Race. A race where entrants have established eligibility by participation in a previous race. ()

110. Starter’s List. A list of all horses which are ineligible to be entered in any race due to poor or inconsistent behavior or performance in the starting gate. ()

111. State Veterinarian. A veterinarian employed by the Racing Commission to serve as professional adviser and consultant to the Racing Commission on veterinary matters including all regulatory aspects of the application and practice of veterinary medicine at racetracks. ()

112. Stay. To delay or stop the effect of a Board of Stewards ruling. ()

113. Steward. A horse racing official who presides over a race meeting, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. ()

114. Straightaway Race. A race ran for a specified distance with no turns. ()

115. Suspension. Punishment for violation of the Racing Commission rules. The offender is denied privileges of the racing facilities for a specified period of time. ()

116. Substitute Officials. An emergency vacancy among racing officials that is filled with the Stewards' approval and reported to the Racing Commission. ()

117. Substitute Steward. Appointment by the remaining stewards during an absence of any steward at race time when an approved alternate is not available. ()

118. Superfecta. The Superfecta requires selection of the first four (4) finishers, in their exact order, for a single contest. ()

022. DEFINITIONS: T THROUGH Z.

In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: ()

1. Take or Takeout. Money deducted from mutuel pools which is shared by the Racing Commission, track and local and state governing bodies in the form of a tax. ()

2. Tattoo - An additional means of identification of a racehorse. They are used along with the horse's markings to include microchips, color, age and sex. ()

a. Lip tattoos can be a series of numbers and/or letters tattooed on the inside top lip of horses, involved in pari-mutuel racing. ()

b. Digital Tattoo – is a digital certification, which is attached to the horse's registration certificate in the breed registry that validates the horse's identification. This digital tattoo is accessible through the scan of the horse's microchip or other unique identifier as authorized by the recognized breed registry. ()

3. Terminal. The device connected to the pari-mutuel system used to place wagers. ()

4. Test Area. A secured testing area provided by a racing association used for taking samples of blood, urine, saliva, hair, or any other acceptable specimen for testing. ()

5. Timer. A person who accurately records the time elapsed between the start and finish of each race. ()

6. Title. Legal document showing ownership of a horse. ()

7. Totalizator. A computer that, directly or indirectly through one (1) or more other totalizators, receives pari-mutuel wagering information, calculates pay-offs for winning tickets and generates reports with respect to such information, and may refer to the linked computers of the hub and the track. ()

8. Tote Employee. An employee of a company providing the automated pari-mutuel system that dispenses and records betting tickets, calculates and displays odds and payoffs, and provides the mechanism for cashing winning tickets. ()

9. Track Superintendent. The employee of a racing association responsible for maintaining acceptable racing and training track conditions during a race meet. ()

10. Track Security. A person responsible to provide security at a racetrack. ()

11. Trainer. The person who conditions and prepares a racehorse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the racehorse. ()

12. Transfer. To convey the possession or legal title of a horse to another. ()

13. Trial. A race to determine qualifiers for a future race. ()

14. Trifecta. The Trifecta requires selection of the first three (3) finishers, in their exact order, for a single contest. ()

15. **Tri-Superfecta.** The Tri-Superfecta requires selection of the first three (3) finishers, in their exact order, in the first two (2) designated contests and the first four (4) finishers, in exact order, in the second of the two (2) designated contests. ()
16. **Twin Quinella.** The Twin Quinella requires selection of the first two (2) finishers, irrespective of order, in each of two (2) designated contests. ()
17. **Twin Trifecta.** The Twin Trifecta requires selection of the first three (3) finishers, in their exact order, in each of two (2) designated contests. ()
18. **Uplink.** An earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals or data on Federal Communication Commission-controlled frequencies and includes any electronic transfer of the audio-visual signals from within the racing enclosure to the location of the transmitter at the uplink. ()
19. **Valet.** A person who attends riders and keeps their wardrobe and equipment in order. ()
20. **Veterinarian.** A private veterinary practitioner employed by owners or trainers on an individual case or contract basis. ()
21. **Veterinarian's List.** A list of all horses which are ineligible to be entered in any race due to a physical condition. ()
22. **Vet Assistant.** A person who assists a state veterinarian. ()
23. **Veterinarians' Reports.** The Medication Report Form completed by every veterinarian who treats a racehorse at any location under the jurisdiction of the Racing Commission. ()
24. **Video Employee.** An employee hired by a photo/video provider to operate the equipment during the running of horse races for the benefit of the Board of Stewards and racetracks. ()
25. **Violations.** All unauthorized activities under these rules. ()
26. **Voucher Identification Number.** A number specifically unique to each pari-mutuel voucher. ()
27. **Wager or Wagering.** To risk or state an amount of money on an unknown outcome. ()
28. **Walk Over.** Means a race in which only one horse starts or in which all the starters are owned by the same interest. To claim the purse the horse(s) must start and go the distance of the race. ()
29. **Weight.** The amount that a jockey weighs prior to and after a race. ()
30. **Weight In.** Post-race weight of the Jockey and equipment. ()
31. **Weight Out.** Pre-race weight of the Jockey and equipment. ()
32. **Weight for Age.** Standard weight according to the scale adopted by the Racing Commission and set forth herein. ()
33. **Winner.** ()
- a. Winner of a single race of a certain sum or value unless otherwise expressed in the conditions. ()
- b. The horse whose nose reaches the finish line first or is placed first through disqualification by The

- Board of Stewards. ()
- 34. Win Pool.** The amount wagered on a specific entry to finish a race. ()
- 35. Win Three.** The Win Three (3) requires selection of a first-place finisher in each of three (3) specified contests. ()
- 36. Winnings.** Money won by successfully wagering on the winner in a live or simulcast race based on the official order of finish. ()
- 37. Withdrawal.** A payment of money from an account by the advance deposit wagering operator for use by an account holder in withdrawing funds from an account. ()
- 38. Withdrawal Slip.** A form provided by the advance deposit wagering operator for use by an account holder in withdrawing funds from an account. ()
- 023. -- 029. (RESERVED)**

SUB AREA A3: LICENSING AND FEES
(Sections 030-090)

030. REFUSAL TO ISSUE LICENSE.

The Racing Commission may refuse to issue a license and may revoke any license already issued to any person:

- ()
- 01. Convicted.** Who has been convicted of any felony and whose civil rights have not yet been restored pursuant to Section 18-310(2), Idaho Code. ()
- 02. Felony Probation.** Who is on probation, or parole for a conviction or withheld judgment for any felony. ()
- 03. Misrepresentation.** Who has made any material misrepresentation or false statement to the Racing Commission or its agents in his application for license or otherwise, or who fails to answer any material question on any application for a license. ()
- 04. Unqualified.** Who is unqualified by age, skill, knowledge or ability to engage in the activities for which a license is required. ()
- 05. Ownership.** Who fails to disclose the true ownership or interest in any or all horses as required by any application. ()
- 06. Ejection.** Who is subject to exclusion or ejection from the racing enclosure or is within the classes of persons prohibited from participating in pari-mutuel wagering. ()
- 07. Conduct.** Who has committed an act or acts demonstrating financial instability, intemperate habits or has a bad reputation for truth, honesty and integrity, or other similar conduct contrary to the best interest of racing. ()
- 08. Narcotics.** Who has been convicted of possession, use, or sale of any narcotic, dangerous drug, or marijuana if such conviction was a misdemeanor, within two (2) years prior to the date of making application for any license. ()
- 09. Drug Probation.** Who is on probation or parole for a conviction or withheld judgment for misdemeanor possession, use, or sale of any narcotic, dangerous drug, or marijuana. ()
- 10. Not Permitted.** Who is not permitted by law or statute to engage in the occupation for which the license is sought. ()

11. Violated Rules. Who has violated or who aids or abets or conspires with any person to violate any provision of the Racing Commission rules or of Sections 54-2501 through 54-2516, Idaho Code. ()

12. Age. No person under sixteen (16) years of age may be issued a license by the Racing Commission with the exception that a person under sixteen (16) years of age may be licensed as a co-owner with a parent or guardian if the person under sixteen (16) years of age submits an Assumption of Liability form signed by the parent or guardian and notarized by a notary public. This co-ownership is not intended to allow an underage person access to any areas of the track facility. ()

13. Deny or Revoke. The Racing Commission may deny a license to, or revoke the license of, any person who has had a license revoked or denied by any recognized racing jurisdiction. ()

031. CRUELTY TO ANIMALS.

No licensee may violate Title 25, Chapter 35, Idaho Code, “Cruelty to Animal,” while on the grounds of a racing association. The Board of stewards will be the sole judges of whether or not a violation of Title 25, Chapter 35, Idaho Code, has occurred on racing association grounds. The penalty for a first offense may include a fine or a suspension or both. A second violation within a calendar year will include a mandatory suspension, the length of which will be at the discretion of the Board of stewards. ()

032. FINGERPRINTS.

All persons between the ages of eighteen (18) and sixty-nine (69) applying for licensing pursuant to this chapter are required to submit information and fingerprints necessary to obtain criminal history information from the Idaho State Police Bureau of Criminal Identification and the Federal Bureau of Investigation. The Idaho State Racing Commission (ISRC) may receive criminal history information from the Idaho State Police Bureau of Criminal Identification and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of applicants pursuant to Section 54-2508, Idaho Code. Pursuant to state and federal law, further dissemination or other use of the criminal history information is prohibited. ()

01. License Applicants. Any person that applies for a license from the Racing Commission who has not been fingerprinted within the past five (5) years must be fingerprinted prior to a license being issued. Pursuant to Section 67-3008, Idaho Code, the ISRC will submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police Bureau of Criminal Identification for a criminal records check of state and national databases. ()

02. Existing Licensees. Any person that currently holds a valid license from the ISRC must be fingerprinted every five (5) years in accordance with the procedures outlined in Subsection 032.01 of these rules. ()

03. Fees. The cost of taking and processing such fingerprints is the responsibility of the applicant. Fees for taking and processing fingerprints are in accordance with the amount(s) charged by the Idaho State Police Bureau of Criminal Identification pursuant to Section 67-3010, Idaho Code. ()

033. APPLICATIONS.

01. Application Forms. All applications must be completely and legibly filled out and submitted to the Racing Commission on forms obtained from the Racing Commission, and all persons applying for licenses shall submit completed applications meeting all requirements, including obtaining necessary signatures as indicated on the form or otherwise noted in this chapter. License types are listed in the License Fee section of this chapter. ()

02. Other Forms. All other forms to be submitted to the Racing Commission by this chapter must be of a type approved by the Racing Commission. ()

03. Age. Applicants between sixteen (16) and eighteen (18) years of age are required to submit to the Racing Commission an Assumption of Liability Form signed by their guardian and notarized by a notary public. ()

034. ADD-ON.

Any qualified person may add an additional license category to an existing license by paying the add-on fee unless: ()

01. Higher Fee. The fee for the category added is higher than the fee for the existing license category. ()

02. Additional License. If the fee for the license category that is requested is higher than the fee for the existing license category, the person must pay the Racing Commission the higher fee. ()

035. -- 039. (RESERVED)

040. LICENSES REQUIRING RACING ASSOCIATION SIGNATURES.

The following application types are also signed by a racing association: Admissions; Announcer; Clocker; Clerk of Scales; Horsemen's Bookkeeper; Identifier; Jocks Room Custodian; Maintenance; Office Personnel; Outrider; Paddock Judge; Racing Secretary; Stall Superintendent; Starter; Track Superintendent; and Valet. ()

041. APPRENTICE JOCKEY LICENSE.

The application is also signed by a steward and an apprentice jockey certificate signed by a licensed starter, two (2) licensed jockeys, a licensed outrider, and a steward. ()

042. ASSISTANT STARTER LICENSE.

The application is also signed by a licensed starter. ()

043. AUTHORIZED AGENT LICENSE.

A notarized authorized agent form is submitted with the application. ()

01. Each Owner Represented. A separate authorized agent form must be filed for each owner represented. ()

02. Written Instrument. A written instrument signed by the owner before a notary public must accompany the application and clearly set forth the delegated powers of the authorized agent. ()

03. Power of Attorney. If the written instrument is a power of attorney, it must be filed with the Racing Commission and attached to the regular application form. ()

04. Changes. Any changes must be made in writing and filed with the Racing Commission as described in Subsection 043.01 of these rules. ()

05. Termination. The authorized agent's appointment may be terminated by the owner, in writing, acknowledged before a notary public and filed with the Racing Commission whereupon the license is no longer valid. ()

044. BAD CHECKS.

Any licensee who makes, draws, orders or delivers a check, draft or order for the payment of money to another Idaho licensee, Racing Association, Racing Commission or employee of said Association, Racing Association or Racing Commission, which check, draft or order for the payment of money is invalid on its face or non-negotiable, or where there is not sufficient funds on deposit for full payment of such check, draft or order, may be subject to suspension or disciplinary action, or both, by the Racing Commission. ()

045. -- 049. (RESERVED)

050. CONCESSIONAIRE LICENSE.

The application includes: ()

01. Names of Owners. The names and addresses of all of the principal owners. ()

- 02. Proof of Financial Stability.** A financial statement of assets and liabilities. ()
- 03. Type of Business.** The type of business generally engaged in by the applicant. ()
- 051. CONCESSION EMPLOYEE LICENSE.**
The application is also signed by a licensed concessionaire. ()
- 052. EMERGENCY MEDICAL TECHNICIAN LICENSE.**
All persons applying for an emergency medical technician license must submit a completed application signed by a racing association and a copy of Emergency Medical Technician Certification. ()
- 053. EXERCISE PERSON LICENSE.**
A Steward must also sign the application for a first time licensee. ()
- 054. GROOM LICENSE.**
The application signed by a licensed trainer. ()
- 055. JOCKEY LICENSE.**
- 01. Application for License.** The application includes a current physical evaluation from a medical professional. ()
- 02. First Time Licensed.** The application for a person that has not been previously licensed as a jockey in Idaho is also signed by a steward. ()
- 056. JOCKEY AGENT LICENSE.**
The application contains a list of licensed jockeys represented. Each jockey agent may represent no more than two (2) jockeys and one (1) apprentice jockey. ()
- 057. MUTUEL EMPLOYEE LICENSE.**
The application is also signed by a racing association and the applicant is at least eighteen (18) years of age. ()
- 058. OFFICIAL LICENSE.**
The application is also signed by a racing association or Racing Commission. ()
- 059. OWNER LICENSE.**
All persons listed on the registration papers must obtain an owners license. ()
- 01. Financial Responsibility.** If the Racing Commission has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement. ()
- 02. Transfer of Horse Prohibited.** The Racing Commission may refuse, deny, suspend or revoke an owner's license for the spouse or member of the immediate family or household of a person ineligible to be licensed as an owner, unless there is a showing on the part of the applicant or licensed owner, and the Racing Commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a Racing Commission rule or ruling is prohibited. ()
- 03. Multiple Owners.** If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other racing association or entity, each shareholder, member or partner must be licensed as an owner. ()
- 04. Lease Agreements.** A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the Racing Commission is attached to the certificate of registration and on file with the Racing Commission. The lessee must be licensed as a horse owner. ()
- 05. Supplemental License Fee.** When submitting a horse for hair testing as required in IDAPA

11.04.01.B.B4, “Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses,” the owner(s) must pay a supplemental license fee of two hundred twenty-five dollars (\$225) per hair test. The Racing Commission, its Business Operations Manager or ISP Designee are authorized to, and will designate the individual(s) responsible for collecting the supplemental fee. The owner or trainer must submit payment to said designated individual prior to testing. ()

060. -- 069. (RESERVED)

070. PLATER LICENSE.

The application for a first time plater license includes a letter of recommendation from an owner or trainer. ()

071. PONY PERSON LICENSE.

If the application is for a first time pony person license, the application is also signed by a steward. ()

072. STABLE NAME LICENSE.

The application includes the identity or identities of the ownership interests involved in the horse racing operation. ()

01. Changes of Ownership. Any change in ownership of the horse racing stable must be reported immediately to and approved by the Racing Commission. ()

02. Trainer. A trainer who is licensed as an owner or part owner may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his legal name. ()

073. STABLE NAME CHANGE.

01. Cancellation. Any person who has been granted a stable name license may at anytime cancel the stable name license if written notice has been submitted to the Racing Commission and the Racing Commission approves the cancellation. ()

02. Name Change. A stable name may be changed at anytime by canceling the existing stable name and submitting a new stable name application with the appropriate fee. ()

074. STABLE NAMES PROHIBITED.

No stable name may be: ()

01. Registered. Registered by any other person with a racing association conducting a recognized meeting, or the Jockey Club (N.Y.) or with another racing authority; ()

02. Real Name. The real name of any owner of race horses nor the real or assumed name of any prominent person not owning race horses; ()

03. Misleading. Misleading to the public or unbecoming to the sport; ()

04. Distinguishable. All stable names must be plainly distinguishable from all other licensed stable names. ()

05. One Name. No individual may license more than one (1) stable name. ()

075. STATE VETERINARIAN LICENSE.

The applicant must have a signed contract on file in the Racing Commission office. ()

076. STEWARD LICENSE.

All persons applying for a steward license must meet the Stewards Qualifications, as set down in IDAPA 11.04.01.B.B2 “Rules Governing Racing Officials,” Section 032, and submit a completed license application signed by the Racing Commission. ()

077. -- 079. (RESERVED)

080. TRACK SECURITY LICENSE.

The application is also signed by their employer, the racing association. ()

081. TRAINER LICENSE.

All persons applying for a trainer license for the first time in Idaho must pass the trainer’s test and have their application signed by a steward, or have a current valid trainers license from another recognized jurisdiction. ()

082. VETERINARIAN LICENSE.

The applicant must have a current valid license to practice veterinary medicine from the state of Idaho. ()

083. VET ASSISTANT LICENSE.

The application is also signed by a state veterinarian. ()

084. -- 089. (RESERVED)

090. LICENSE FEES.

All persons must submit completed applications when applying for license types listed below and pursuant to this chapter and also pay the Racing Commission the fee associated with the type of license being sought before any license will be issued.

LICENSE	FEE	LICENSE	FEE
Add-ons	- \$10	Office Personnel	- \$15
Admission	- \$15	Official	- \$50
Announcer	- \$25	Outrider	- \$25
Apprentice Jockey	- \$50	Owner	- \$50
Assistant Starter	- \$25	Owner/Trainer	- \$65
Authorized Agent	- \$50	Paddock Judge	- \$25
Chart Person	- \$25	Photographer	- \$25
Clerk of Scales	- \$25	Plater	- \$50
Clocker	- \$25	Pony Person	- \$25
Concession Employee	- \$15	Racing Secretary	- \$35
Concessionaire	- \$50	Stable Registration	- \$50
Duplicate	- \$10	Stall Superintendent	- \$25
EMT	- \$25	Starter	- \$25
Exercise Person	- \$25	State Veterinarian	- \$0
Groom	- \$25	Tote Employee	- \$15
Horsemen’s Bookkeeper	- \$35	Track Security	- \$25
Identifier	- \$25	Track Superintendent	- \$25
Jockey	- \$50	Trainer	- \$50
Jockey Agent	- \$50	Valet	- \$10
Jocks Room Custodian	- \$25	Veterinarian	- \$50
Maintenance	\$15	Vet Assistant	- \$15

LICENSE	FEE		LICENSE	FEE
Mutuel Employee	- \$15		Video Employee	- \$15

()

091. PENALTIES.

Any person violating any of the provisions of this chapter is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code. ()

092. -- 099. (RESERVED)

**SUB AREA A4: CONTROLLED SUBSTANCE AND ALCOHOL TESTING OF LICENSEES AND APPLICANTS
(Sections 100-129)**

100. PRIMARY PURPOSE.

In order to protect the integrity of horse racing in the state of Idaho, to protect the health and welfare of licensees and applicants engaged in horse racing within the state of Idaho, to prevent exploitation of the public, licensees and applicants engaged in horse racing in the state of Idaho, to foster fairness of competition within the racing industry and in order to protect public safety within the state of Idaho, the Racing Commission intends to regulate the use of any controlled substance and alcohol at all race meets licensed by it. ()

101. USE OF CONTROLLED SUBSTANCES.

No licensee or applicant may have within their body any unauthorized controlled substance while within the enclosure of or on the premises managed by any racing association or the Racing Commission. ()

102. CONSUMPTION OF ALCOHOL.

No jockey, starter, assistant starter, pony person, outrider, or racing official may have present within his body any amount of alcohol while participating in any horse race held that day. ()

103. TESTING.

The Board of Stewards, or the Racing Commission acting through the Business Operations Manager, or ISP designee, may require any licensee or applicant to provide blood, urine, or saliva samples for the purpose of drug or alcohol analysis under either of the following circumstances: ()

01. Random Testing. As part of a random testing program. ()

02. Reasonable Suspicion. When the Board of Stewards finds that there is reasonable suspicion to believe that the proposed testee has used any controlled substance. ()

104. POST-ACCIDENT TESTING.

At its discretion the Board of Stewards may conduct post-accident controlled substance or alcohol testing of any licensee or applicant who is involved in a racing or job-related accident on the track or on racing association grounds that requires treatment away from the scene of the accident. ()

105. -- 109. (RESERVED)

110. REFUSAL TO TEST.

01. Refusal to Supply a Sample. When any licensee or applicant is requested to submit to a drug test in a manner prescribed in these rules, the person must do so in a prompt manner. Refusal to supply such sample will result in: ()

a. The immediate suspension of the licensee or applicant; and ()

b. A hearing before the Board of Stewards in accordance with IDAPA 11.04.01.A.A5 "Rules

Governing Disciplinary Hearings and Appeals,” Section 101. ()

02. Suspended from Racing for Refusal to Test. ()

a. If the Board of Stewards finds at the hearing that said refusal to test occurred, the licensee or applicant will be suspended from racing for seven (7) calendar days and be subject to random testing for one (1) year. ()

b. In the event of a finding of just cause the licensee or applicant must submit to a test immediately once the conditions which justly prevented testing abate or can be eliminated. ()

03. Subject to Random Testing. In the event a licensee or applicant refuses to test when requested after previously refusing to test or previously testing positive for drugs, that licensee or applicant will be suspended from racing for a period of ninety (90) calendar days and subject to random testing for a period of one (1) year. ()

111. TESTING PROCEDURE.

01. Accordance with Established Procedures. Testing must be done in accordance with established medical and law enforcement procedures in the state of Idaho. ()

02. Retesting. The sample may be retested at the request of the licensee or applicant at either the laboratory used by the Racing Commission or a separate laboratory selected from a list provided by the Racing Commission. The licensee or applicant is responsible for all costs associated with the retesting of the sample. ()

112. A POSITIVE TEST.

On receiving written notice from the approved laboratory that a sample has been found positive for a controlled substance, the Racing Commission will initiate the following procedure: ()

01. Notification. The Racing Commission, through the Business Operations Manager or ISP designee, will notify the presiding Steward and forward the test results to the Board of Stewards. ()

02. Hearing Set. The Board of Stewards will set a hearing in accordance with IDAPA 11.04.01.A.A5, “Rules Governing Disciplinary Hearings and Appeals,” within the next two (2) racing days or seven (7) calendar days, whichever is less, after they receive notice of a positive test from the. Business Operations Manager or ISP designee. ()

03. Written Notice. ()

a. Notice of Hearing. Written notice of the hearing must be given to the licensee or applicant as soon as the hearing date is set. The hearing may be held within a shorter or longer period of time if the licensee, employee, or applicant named and the Board of Stewards agree. ()

b. Service of Notice. Service must be to the licensee or applicant personally by leaving the notice at the person’s residence with someone of reasonable age and discretion residing therein, or by mail to the person’s last known address. If by mail, service is deemed completed on the third day after mailing. ()

04. Opportunity for Explanation. The hearing will conducted before the Board of Stewards pursuant to IDAPA 11.04.01.A.A5, “Rules Governing Disciplinary Hearings and Appeals.” At the hearing, the licensee or applicant will be provided an opportunity to present evidence and explain the positive test. ()

05. Confidentiality. The Board of Steward’s hearing must be closed and the facts therein will be kept confidential, unless for use with respect to any subsequent contested hearing or order by the Racing Commission or judicial hearing with regard to such facts. Closure of the hearing and confidentiality of the proceedings may be waived by the licensee, employee, or applicant. ()

06. Lacking Satisfactory Explanation. Lacking a satisfactory explanation and documentation or upon

the licensee or applicant agreeing with the test results, the Board of Stewards will suspend the licensee or applicant in accordance with Section 113 of these rules. ()

113. PROCEDURES FOLLOWING A POSITIVE CHEMICAL ANALYSIS.

01. First Positive Test. For a licensee's or applicant's first positive drug test he will not be allowed to participate in racing for seven (7) calendar days and until such time as he has received a substance abuse evaluation and has begun the recommended rehabilitation program. Additionally, the licensee or applicant will be subject to random testing for a period of one (1) year from the date the positive sample was taken. ()

02. After Evaluation. After such evaluation, but not before the tolling of the seven (7) calendar days awarded in Subsection 113.01 of these rules, if said licensee's or applicant's condition proves non-addictive and not detrimental to the best interest of racing, said licensee or applicant will be allowed to participate in racing provided he can produce a negative test result from a laboratory approved by the Racing Commission and agrees to further testing at the discretion of the Board of Stewards or designated Racing Commission representative to ensure his impairment. ()

03. Second Violation. For a licensee's or applicant's second violation, he will be suspended for ninety (90) consecutive days and until he provides the Board of Stewards with documentation that he has enrolled and is progressing satisfactorily in a certified drug rehabilitation program approved by the Racing Commission. ()

04. Third Violation. For a licensee's or applicant's third violation, he will be suspended and the case referred to the Racing Commission for consideration of revocation of the individual's license. ()

114. CONFIDENTIALITY OF TEST RESULTS.

All test results are obtained as part of an inquiry into a person's fitness to be granted or to retain a license and are exempt from public disclosure pursuant to Section 9-304C, Idaho Code. A statistical summary will be made available annually. ()

115. TESTING EXPENSE.

Except for retesting requested by a licensee or applicant, all testing ordered pursuant to these rules, whether blood, urine, or breath, will be at the expense of the Racing Commission. All expense of drug or alcohol evaluation, treatment, reports, and fees will be at the expense of the licensee or applicant undergoing such evaluation or treatment. ()

116. -- 129. (RESERVED)

SUB AREA A5: DISCIPLINARY HEARINGS AND APPEALS
(Sections 130-199)

130. APPLICABILITY.

These rules apply to all proceedings for disciplinary action of licensees and associated proceedings including disqualification. ()

131. EXEMPTION FROM THE IDAHO RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL.

01. Findings. In accordance with Section 67-5206(5)(b), Idaho Code, the Racing Commission makes the following findings: ()

a. Horse racing is a sport requiring racing officials to make immediate binding decisions affecting the races and participants in the races. ()

b. A central element of horse racing is pari-mutuel betting, and public confidence in the outcome of races is critical to the racing industry and the general public. ()

c. Racing seasons at certain locations are often very short and involve preliminary and final races

requiring quick action in order for disciplinary action to be effective and in order to permit final races to be run without controversy as to the participants and winners. ()

d. Nationwide, participants in racing have become accustomed to, and acknowledge the need for, immediate authoritative decisions and quick disciplinary action. ()

02. Idaho Rules of Administrative Procedure of the Attorney General. Insofar as such provisions are not inconsistent with these rules, because of the factors described in Subsection 131.01 of these rules, the Racing Commission adopts IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

a. Proceedings before the Racing Commission are governed by IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

b. Proceedings by the Board of Stewards are governed exclusively by this chapter and supersede IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

132. DISCIPLINARY ACTION.

Only the Board of Stewards or the Racing Commission have the right to impose a fine or suspension. ()

133. WRITTEN REPORT.

The Board of Stewards must report fines or suspensions imposed in the daily written report submitted to the Racing Commission. ()

134. FINES.

All fines imposed by the Board of Stewards must be paid to the Horsemen’s Bookkeeper immediately after imposition, except: ()

01. Otherwise Ordered. As otherwise ordered by the Board of Stewards under these rules; ()

02. Stayed by Commission. Stayed by the Racing Commission; or ()

03. Stayed by Courts. As stayed by a court of competent jurisdiction. ()

135. SUSPENSIONS.

All suspensions for a specified period of time are to be considered in calendar days. The ruling will show the first and the last day of suspension. ()

136. -- 139. (RESERVED)

140. SUMMARY SUSPENSION.

If the Board of Stewards determine that a licensee’s actions constitute an immediate danger to the public health, safety or welfare, the Board of Stewards may summarily suspend the license pending a hearing. ()

01. Entitlement to Hearing. A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the third day after the license was summarily suspended. The licensee may waive his right to a hearing on the summary suspension within the three (3) day limit. ()

02. Issue at Hearing. The Board of Stewards must conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee’s license should remain suspended pending a final disciplinary hearing and ruling. ()

141. RIGHTS OF THE LICENSEE.

A licensee who is the subject of a disciplinary hearing conducted by the Board of Stewards is entitled to the following: ()

01. Proper Notice. Proper notice of all charges; ()

- 02. **Legal Counsel.** The right to legal counsel at the licensee’s own expense; ()
- 03. **Examination of Evidence.** The right to examine all evidence to be presented against the licensee; ()
- 04. **Defense.** The right to present a defense; ()
- 05. **Call Witnesses.** The right to call witnesses; and ()
- 06. **Cross Examination.** The right to cross examine witnesses. ()

142. PROPER NOTICE OF ALL CHARGES.

The Board of Stewards must provide written notice at least three (3) days before the hearing to a licensee who is the subject of a disciplinary hearing, except as provided for by these rules regarding summary suspensions. The licensee may waive his right to a three-day notice by executing a written waiver. ()

143. CONTENT OF NOTICE.

Notice given under Section 142 includes: ()

- 01. **Hearing Schedule.** A statement of the time, place and nature of the hearing; ()
- 02. **Legal Authority.** A statement of the legal authority and jurisdiction under which the hearing is to be held; ()
- 03. **Violation.** A reference to the particular sections of the statutes or rules involved; ()
- 04. **Description of Conduct.** A short, in plain language of the alleged conduct that has given rise to the disciplinary hearing; ()
- 05. **Possible Penalties.** The possible penalties that may be imposed; and ()
- 06. **Rights.** A statement summarizing the rights of the licensee as outlined in Section 141 of these rules. ()

144. SERVICE OF NOTICE.

01. **Hand Delivery.** If possible, the Board of Stewards or their designee may hand deliver the written notice of the disciplinary hearing to the licensee who is the subject of the hearing. ()

02. **Mail Delivery.** If hand delivery is not possible, the Board of Stewards may mail the notice to the licensee’s last known address, as found in the Racing Commission’s licensing files, by regular mail and by certified mail, return receipt requested. ()

03. **Disqualification.** If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the Board of Stewards must provide notice of the hearing to the owner, managing owner or lessee of the horse in the manner provided by Section 144. ()

145. NONAPPEARANCE.

01. **Nonappearance After Adequate Notice.** Nonappearance of a summoned party after adequate notice is construed as a waiver of the right to a hearing before the Board of Stewards. ()

02. **Suspension of License.** In compliance with these rules the Board of Stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent. ()

146. CONTINUANCES.

01. Request for Continuance. Upon receipt of a notice of disciplinary hearing, a licensee may request a continuance of the hearing. ()

02. Good Cause. The Board of Stewards may grant a continuance of any hearing for good cause shown. ()

03. Order of Continuance. The Board of Stewards may at any time order a continuance on their own motion. ()

147. -- 149. (RESERVED)

150. EVIDENCE.

Each witness at a disciplinary hearing conducted by the Stewards will be sworn in by the presiding steward. ()

151. RULES OF EVIDENCE.

The Board of Stewards are to allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the Board of Stewards may disallow evidence that is irrelevant or unduly repetitive of other evidence. The Board of Stewards have the authority to determine, in their sole discretion, the weight and credibility of any evidence or testimony. The Board of Stewards may admit hearsay evidence if the Board of Stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the Board of Stewards. ()

152. BURDEN OF PROOF.

The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Racing Commission rule. ()

153. RECORD OF HEARING.

The Board of Stewards must make a tape recording of all disciplinary hearings. A transcript of the recording may be made available at the expense of the requesting person. ()

154. -- 159. (RESERVED)

160. RULING.

The issues at a disciplinary hearing must be decided by a majority vote of the Stewards. If the vote is not unanimous, the dissenting steward must include a written statement of the reason(s) for the dissent with the record of the hearing. ()

161. FORM OF RULING.

A ruling by the Board of Stewards must be on a form prescribed by the Racing Commission and include: ()

01. Personal Information. The full name, date of birth, last record address, license type and license number of the person who is the subject of the hearing; ()

02. Charges. A statement of the charges against the licensee, including a reference to the specific section of the Act or rules of the Racing Commission that the licensee is found to have violated; ()

03. Dates. The date of the hearing and the date the ruling was issued; ()

04. Penalty. The penalty imposed; ()

05. Order of Finish. Any changes in the order of finish or purse distribution; and ()

06. Other Information. Any other information required by the Racing Commission. ()

07. Signing of Ruling. Signatures by a majority of the Stewards. ()

162. SERVICE OF RULING.

01. Hand Delivery. If possible, one of the Stewards or their designee may hand deliver a copy of the ruling to the person who is the subject of the ruling. ()

02. Mail. If hand delivery is not possible, one of the Stewards may mail the ruling to the person's last known address, as found in the Racing Commission's licensing files, by regular mail and by certified mail, return receipt requested. ()

03. Copy. A copy of the ruling must be sent to the association of Racing Commissioners International or association of Racing Commissioners International Ruling Database. ()

04. Disqualification. If the ruling includes the disqualification of a horse, the Board of Stewards must provide a copy of the ruling to the owner of the horse, the horsemen's bookkeeper, the appropriate past performance service(s) and the Association of Racing Commissioners International in the manner provided for in these rules. ()

163. NOTICE OF RIGHT OF APPEAL.

A licensee who is the subject of the proceeding must be informed by one of the Stewards of his right to appeal the ruling at the time he is informed of the ruling. ()

164. TRANSFER OF HORSE PROHIBITED.

The transfer of a horse to avoid application of a Racing Commission rule or ruling is prohibited. ()

165. APPEALS.

Except as provided in Section 170 of these rules, a licensee aggrieved by a ruling of the Board of Stewards may appeal to the Racing Commission. A licensee who fails to file an appeal by the deadline and in the form outlined by these rules waives the right of appeal. ()

166. TIME FRAME FOR APPEAL.

An appeal must be filed with the Business Operations Manager or ISP designee of the Racing Commission not later than five (5) calendar days after the entry of the ruling. If the Racing Commission determines the appeal to be frivolous, the appellant may be subject to a fine. ()

167. FORM OF APPEAL.

01. Form of Appeal. An appeal must be in writing on a form prescribed by the Racing Commission and include: ()

a. The name, address, telephone number and signature of the licensee making the appeal; and ()

b. A statement of the basis for the appeal. ()

02. Bond. The licensee filing the appeal may be required to furnish a bond in the amount of two hundred dollars (\$200) to cover the administrative costs and which may be forfeited should the appeal be heard. ()

168. RECORD FOR APPEAL.

Upon notification by the Racing Commission that an appeal has been filed, the Board of Stewards must forward to the Racing Commission the written record of the proceeding and any evidence or exhibits on which the appeal is based. ()

169. PAYMENT OF FINES DURING APPEAL.

If a licensee against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the licensee must pay the fine in accordance with these rules. If the appeal is disposed of in favor of the appellant, the Racing Commission will refund the amount of the fine. ()

170. NO APPEAL FROM DISQUALIFICATION FOR INTERFERENCE.

A decision by the Board of Stewards regarding a disqualification for interference during the running of the race is final and may not be appealed to the Racing Commission. ()

171. HEARING ON APPEAL.

The hearing of the Racing Commission on appeal is limited to oral argument regarding issues of law and fact as may be found in the record established before the Board of Stewards, except, the Racing Commission may order a de novo hearing if the Racing Commission determines that exceptional circumstances require it. ()

172. WRITTEN APPEAL.

01. Written Appeal. With the consent of the appellant, an appeal may be submitted in writing. ()

02. Determination. The Racing Commission will determine the matter upon the record submitted to the Racing Commission. ()

03. Papers. All papers filed with the Racing Commission are the property of the Racing Commission. ()

173. HEARING OFFICER.

The Racing Commission may assign or have assigned a hearing officer to hear the matter and issue recommended order pending before the Racing Commission, pursuant to the IDAPA 04.11.01, “Idaho Rules of Administrative Proceeding of the Attorney General.” ()

174. WRITTEN ARGUMENTS.

Written arguments and briefs or briefs and motions regarding the appeal will be allowed under such terms as the Racing Commission may direct in its notice of hearing, which will be issued at least twenty-eight (28) days prior to the date set for hearing. ()

175. MOTIONS.

Requests for postponement and other motions must be filed in writing not later than seven (7) days before the scheduled hearing. The Business Operations Manager or ISP designee may determine whether good cause is shown for the postponement and may grant or deny the request on behalf of the Racing Commission. ()

176. RECORD OF PROCEEDINGS.

01. Record of Proceedings. A verbatim record of the proceedings at hearings before the Racing Commission will be maintained either by electrical devices or by stenographic means, as the Racing Commission may direct. ()

02. Stenographic Record. If any party to the action requests a stenographic record of the proceedings, the record will be done by stenographic means. ()

03. Cost. The requesting party must pay the costs of reporting the proceedings. ()

177. FINAL ORDER.

Following the hearing the Racing Commission will issue a final order as provided by Section 67- 5246, Idaho Code. The Business Operations Manager or ISP designee may sign the final order at the direction of the Racing Commission Chairman. ()

178. STAY OF RULING.

A licensee who has been disciplined by a ruling of the Board of Stewards may apply to the Business Operations Manager or ISP designee for a stay of the ruling. ()

179. TIME FRAME FOR APPLICATION.

An application for a stay must be filed with the Racing Commission’s Business Operations Manager or ISP designee not later than the deadline for filing an appeal. ()

180. FORM OF APPLICATION.

- 01. Application for Stay.** An application for a stay must be in writing and include: ()
- a.** The name, address, and telephone number of the person requesting the stay; ()
 - b.** A statement of the justification for the stay. ()
- 02. Licensee Signature.** The application must be signed by the licensee requesting the stay. ()

181. GRANT OR DENIAL OF STAY.

The Business Operations Manager or ISP designee may grant a stay for good cause by notifying the licensee in writing. The Business Operations Manager or ISP designee may rescind a stay granted under this subsection of these rules for reasonable cause. ()

182. EFFECT OF STAY.

The fact that a stay is granted is not a presumption that the ruling by the Board of Stewards is invalid. ()

183. EXCLUSION.

The Board of Stewards or Racing Commission may order an individual excluded from all or part of any premises under the regulatory jurisdiction of the Racing Commission if the Stewards, Business Operations Manager or ISP designee, or Racing Commission determine that: ()

01. Statutory or Regulatory Exclusion. The individual may be excluded under the statutes or rules of the Racing Commission. ()

02. Integrity Exclusion. The individual's presence on racing association grounds is inconsistent with maintaining the honesty and integrity of racing. ()

184. HEARING ON EXCLUSION.

An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the Board of Stewards or Racing Commission. ()

01. Ordered Separately. If an exclusion is ordered separately, the excluded individual is entitled to a hearing before the Board of Stewards or Racing Commission. ()

02. Conduct of Hearing. A hearing on an exclusion is conducted in the same manner as other hearings conducted by the Board of Stewards or Racing Commission. ()

03. Effect of Exclusion. If an individual is excluded under these rules, a horse owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction. ()

185. RULINGS IN OTHER JURISDICTIONS.

The Racing Commission and the Board of Stewards may honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation, or eligibility of horses. ()

186. APPEALS OF RECIPROCAL RULINGS.

Persons subject to rulings in other jurisdictions have the right to request a hearing before the Racing Commission to show cause why such ruling should not be enforced in this jurisdiction. ()

01. Request for Hearing. Any request for such hearing must clearly set forth in writing the reasons for the appeal. ()

02. Signed. The request must be signed by the person requesting the hearing. ()

187. -- 199. (RESERVED)

Subchapter B: Rules Governing Live Races in the State of Idaho

SUB AREA B1: RACING ASSOCIATIONS
(Sections 200-299)

200. ENTER, SEARCH AND INSPECT.

Every Racing Association, the Racing Commission, the Stewards or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. ()

201. RACING COMMISSION.

01. Visit and Inspection. The Racing Commission or designated representatives will visit and inspect the race meets. Each Racing Association conducting a race meet must make available to the Racing Commission a box of four (4) seats for each day of the race meet. The private cars of Racing Commissioners or designated representatives will have access to the restricted parking area of all tracks. ()

02. Association Office. Each Racing Association must furnish and provide an adequate office for the use of the Racing Commission or its designated representatives. ()

202. EMPLOYEES.

01. Licenses. Any Racing Association that employs any person in a capacity that is required to be licensed by the Racing Commission prior to the Racing Commission granting such a license may be subject to suspension or a fine, or both. ()

02. Suspension or Fine. The extent of said suspension or fine, or both, is determined by the Board of Stewards. ()

03. Report to Stewards. Any licensee who harbors anyone not licensed by the Racing Commission will be immediately reported to the Board of Stewards of the race meet so that they may make investigation thereof and report the fact to the Racing Commission. ()

203. DISTURBING THE PEACE.

No person will in any manner or at any time disturb the peace or behave in a disorderly manner on the grounds of a Racing Association; nor will any person interfere with the performance of the duties of a racing official or any employee or representative of the Racing Commission. ()

204. RULED OFF.

01. Admittance to Grounds. No person or horse ruled off, or under suspension by any recognized racing authority, will be admitted to or allowed to remain upon the grounds of any Racing Association. ()

02. Persons Ruled Off a Track Ineligible. When a person is ruled off a course or suspended, every horse owned in whole or part by him, or under his care, management, training or superintendence, is ineligible to enter or to start in any race until the rescinding of said person's penalty, or by the placement of the horse or horses in the hands of a licensed Trainer approved by the Stewards. ()

205. PROHIBITED PRINTED MATERIAL.

No unauthorized tip sheet, pamphlet or other printed matter, other than official programs, the Daily Racing Form and general newspapers, are to be sold on the Racing Association grounds. ()

01. Copies. Copies of all such materials offered for sale in the parking area or elsewhere on or off the grounds of the Racing Association must be furnished daily to the Presiding State Steward, not later than two (2) hours before first post. ()

02. Publishers. All tip sheet publishers and vendors must be licensed by the Racing Commission. ()

206. -- 209. (RESERVED)

210. HANDBOOKS.

No person may make a handbook or a foreign book, or solicit a bet with a handbook or a foreign book on the grounds of a Racing Association. ()

211. BOOKMAKERS.

01. Entry Prohibited. The following persons will not be allowed entry into or remain upon the premises of any Racing Association: ()

a. A person who is a bookmaker or who is known or reputed to be a bookmaker; ()

b. A person who is a vagrant within the meaning of the laws of Idaho; ()

c. A person who is a fugitive from justice; ()

d. A person whose conduct now or heretofore has been improper, obnoxious, unbecoming or detrimental to the best interest of racing. ()

02. Ejection. Upon discovery or recognition, all such persons described in Subsection 211.01 of these rules will be ejected by the Racing Association or representatives and agents of the Racing Commission. ()

03. License Revocation. Associating with a person or persons such as described in Subsection 211.01 of these rules may be grounds for the revocation of any license. ()

212. IDAHO BRED RACES.

At least one (1) race each day at each race meet must be limited to Idaho bred horses. If a sufficient class of horses is not available to fill the race, said race may be opened to Idaho bred preferred. ()

01. Number of Races. The Racing Secretary must alternate among breeds according to the applicable horsemen's agreement. ()

02. Certificate of Registration. The owners' certificate of registration is proof that horses entered in such races were bred in Idaho. ()

213. BREEDER AWARDS.

A sum equal to ten percent (10%) of the first place purse money won by an Idaho bred horse must be paid by the Racing Association to the breeder of such horse. All purse moneys derived from pari-mutuel racing and all purse enhancement moneys from the Idaho State Racing Commission are included in the calculation of these breeder payments. All nominating and sustaining fees, and any moneys from outside sponsors are excluded from the calculation of these breeder payments. ()

214. BREED ASSOCIATIONS.

Pursuant to Section 54-2513, Idaho Code, on or before December 15 of each year, representatives of each breed which received money the preceding year must file a financial report showing disposition of any funds thus received. ()

01. Failure to File. Failure to file such report is grounds for the Racing Commission to deny approval of any future disbursement to that breed. ()

02. Representatives. “Lawfully constituted representatives of each breed” is the designated representative of the one (1) recognized breed organization for each breed racing in Idaho that has established itself as the traditional breed acknowledged by the Racing Commission. ()

215. -- 219. (RESERVED)

220. RACING ASSOCIATION LICENSE.

No person may conduct a live race meet unless they possess a valid Racing Association license issued by the Racing Commission. ()

221. RACING ASSOCIATION LICENSE FEES.

Every Racing Association conducting a race meet in Idaho must pay a fee of twenty-five dollars (\$25) for each day of racing, except as otherwise provided in Title 54, Chapter 25, Idaho Code. ()

222. RACING ASSOCIATION LICENSE APPLICATIONS.

Applications for Racing Association licenses must be made on forms approved by the Racing Commission. The Racing Commission sets the application date. ()

223. APPLICATIONS FOR SUCCEEDING SEASONS.

Applications for a license to conduct a race meet during the next succeeding season must be filed with the Racing Commission over the signature of an Business Operations Manager or ISP designee of the Racing Association. The Racing Commission sets the application date. ()

224. HORSEMEN’S AGREEMENT.

Every Racing Association must have in effect a signed Horsemen’s Agreement. ()

225. RACING ASSOCIATIONS OPERATION.

01. Requirements. The scope of the Racing Associations operation and plant facilities will determine the Racing Commission’s requirements for the following: ()

- a. Proof of financial stability; ()
- b. Names of stockholders; ()
- c. Medical and veterinary facilities; ()
- d. Lodging facilities; and ()
- e. Protective facilities. ()

02. Additional Information. The Racing Commission or Idaho State Police may require additional background information of applicants or licensees. ()

226. -- 229. (RESERVED)

230. REPORT OF FUNDS.

Pursuant to Section 54-2513, Idaho Code, prior to or at the time of making application for licensing Racing Associations which received money the preceding year must file a financial report with the Racing Commission showing disposition of any funds thus received. ()

231. APPROVAL OF RACING ASSOCIATION LICENSES.

The Racing Commission will consider each application for a Racing Association license individually and decide whether to grant the license or not on a case by case basis. ()

232. LICENSE GRANTED UPON CONDITIONS.

Every Racing Association license is granted upon the condition that the licensee accept, observe and enforce the Racing Commission rules. ()

01. Duty. It is the duty of each and every officer to observe and enforce the Racing Commission rules. ()

02. Investigations. The Racing Commission may require background investigations, fingerprints and photographs of Racing Association officers, stockholders or employees. ()

233. REFUSAL TO ISSUE LICENSE.

The Racing Commission may refuse to issue a Racing Association license when such refusal appears to be for the best interest of racing and of the public. The Racing Commission will, in deciding upon applications for Racing Association licenses, consider the following matters: ()

01. Properly Develop. The opportunity for the sport to properly develop. ()

02. Competition. The avoidance of competition with established tracks in Idaho. ()

03. Community Support. The extent of community support for the promotion and continuance of the tracks. ()

04. Reputation. The character and reputation of the persons identified with the Racing Association. ()

05. Safety. The general conditions and safety of the Racing Association facilities. ()

234. FINGERPRINTS -- PHOTOGRAPH.

Every person holding a Racing Association license in Idaho, and every person that holds such a license who is an officer or director of a Racing Association that is in any capacity connected to any extent with the pari-mutuel wagering business in this State, must, on demand, furnish his fingerprints and photograph to the Racing Commission for its files. Fingerprints and photograph are to be taken at such time and place and in such manner as the Racing Commission may from time to time direct and prescribe. ()

235. -- 239. (RESERVED)

240. RACING DATES.

Application for racing dates must be made on forms approved by the Racing Commission. Application for racing dates does not commit the Racing Commission to the granting of a license to conduct race meets upon the dates requested. ()

241. LICENSE NOT TRANSFERABLE.

No Racing Association license or any part thereof is transferable or assignable without the consent of the Racing Commission and said license is not valid for any racing days other than those approved by the Racing Commission. ()

242. PROPOSED OFFICIALS.

Thirty (30) days prior to the first day of a race meet the Racing Association must submit in writing to the Racing Commission all names and personal data of proposed officials for processing for licensing. No official may act until approved by the Racing Commission. A Racing Commission representative at the track will process substitutions. The required form will be provided by the Racing Commission. ()

01. Hardship. To avoid undue hardship the Racing Commission may authorize Racing Associations to allow officials other than Stewards to act in dual capacities. ()

243. RACING ASSOCIATIONS: GENERAL RULES.

01. Laws and Rules. The laws of Idaho and the rules promulgated by the Racing Commission

supersede the conditions of the race or the regulations of a race meet. ()

02. Racing Hours. Each Racing Association may conduct horse racing only between the hours of 12:00 noon and 12:00 midnight, unless otherwise specifically authorized by the Racing Commission. ()

03. Conditions of Races. Each Racing Association must file with the Racing Commission the conditions of races it proposes to hold together with the stakes, purse or rewards. ()

04. Open Market. Owners and stables participating in race meets operating under license of the Racing Commission may purchase feed and supplies on the open market. No Racing Association may grant exclusive concessions which will interfere with this right. ()

05. Toilets and Other Facilities. Each Racing Association must on every racing day provide and maintain adequate toilet facilities and facilities for furnishing drinking water for its patrons and persons having business at the track. ()

06. Tampering. Each Racing Association must provide protection facilities to prevent tampering with horses or any other corrupt practices at licensed race meets. The Racing Commission may at any time require Racing Associations to expand their protective services. ()

07. Fire Regulations Posted. Every Racing Association must post in the stable area of its premises the fire regulations applicable on its grounds and state the location of the nearest fire alarm box and the telephone number of the fire department or other pertinent instructions as to the method for reporting a fire in the area. Such notices must be posted no more than one hundred (100) feet apart or as approved by the local fire authority. No Racing Association or other person may violate the posted fire regulations specified by the Racing Commission. ()

08. Credentials. A full record of credentials issued by the Racing Association must be compiled and open to inspection at all times with all additions made to or changes in the list of employees of any Racing Association reported promptly to the Racing Commission in writing. ()

09. Horse Ambulance. Racing Associations must furnish, maintain, and have available a horse ambulance, as required by the Racing Commission, for each day that the track is open for racing or exercising during the race meet. ()

10. Human Emergency Medical Response Vehicle. Racing Associations must furnish and maintain a human emergency medical response vehicle, as required by the Racing Commission, for each day that the track is open for racing or exercising during the race meet. If the human emergency medical response vehicle is being used to transport an individual, the Racing Association may not conduct a race until the ambulance is replaced. ()

11. Medical Professionals. Racing Associations must have a licensed physician, registered nurse, paramedic or licensed emergency medical technician on duty at the track on each day of racing and also provide adequate first aid and medical facilities to protect patrons and participants at licensed race meets. ()

12. Comfort and Safety. Racing Associations must at all times maintain the premises in good condition and properly secured, with special consideration for the comfort and safety of the public, of the horses and of all others present. ()

13. Violators. Violators of any rules are subject to ejection from the grounds, fine, suspension, being ruled off or any combination of the preceding. ()

14. Post Notices. Racing Associations must promptly post Racing Commission notices in places that can be easily viewed by licensees. ()

244. HORSEMEN’S ACCOUNT.

Unless otherwise authorized by the Racing Commission and consistent with the Horsemen’s agreement pertaining to the Horsemen’s account, each Racing Association must keep an account, to be known as the “Horsemen’s Account,” with sufficient funds at all times in such account to cover all monies due horsemen in regard to purses, stakes,

rewards, claims and deposits. ()

01. Subject to Review or Audit. The account is at all times be subject to review or audit by the Racing Commission. ()

02. Bonded. The horsemen’s bookkeeper is in charge of such an account and must be insured against crime or employee dishonesty in a manner approved by the Racing Commission. ()

245. -- 249. (RESERVED)

250. PURSE MONEY.

Purse money must be made available to the winners promptly following release by the Racing Commission or its representative. ()

01. Release. Release will be given when test results of the horse’s urine, blood or other specimens have been reported to the Racing Commission. ()

02. Breeder’s Awards. Breeder’s awards will be payable when the purse is cleared. ()

03. Weekly Remittance. The one-half (1/2) of one percent (1%) to benefit owners or breeders is to be remitted weekly by the Racing Association to the Racing Commission for distribution quarterly to the representatives of each breed. ()

251. COMMUNICATION.

01. Communication System. Racing Associations must provide and maintain in good working order a communication system between racing officials and locations as determined by the Racing Commission. ()

02. Public Address System. Racing Associations must provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area. ()

252. DOCUMENTS FILED WITH RACING COMMISSION.

Not less than thirty (30) days before opening a race meet each Racing Association must file with the Racing Commission the following: ()

01. Bond. A bond signed by a surety company licensed to do business in this State in such form and in the sum as may be required by the Racing Commission, conditioned that the association will pay to the state of Idaho all money due under the provisions of Title 54, Chapter 25, Idaho Code. ()

02. Liability Insurance. Proof of public liability insurance by a company licensed to do business in this State in such form and in the amount as may be required by the Racing Commission for the protection of the public, the exhibitors and visitors. ()

03. Accident Insurance or Workmen’s Compensation Insurance. Proof of an accident insurance policy or workmen’s compensation insurance policy issued by a company licensed to do business in Idaho for the protection of Jockeys and exercise persons for injuries incurred in connection with race meets in such form and amount as may be required by the Racing Commission. ()

253. HORSE RACE TRACKS.

01. Track Width. A minimum of twenty (20) feet of track width must be allowed for the first two (2) horses in a race, with an additional five (5) feet for each added starter. ()

02. Implements. Racing Associations must provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition and provide back-up equipment for maintaining the track surface. ()

03. Limit on Number of Horses. No more than eight (8) horses may start in any race on a one-half (1/2) mile track. ()

04. Racing Surface. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and horses. ()

05. Rails. Race tracks must have inside and outside rails, including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the Racing Commission prior to the first race meet at the track. ()

254. JOCKEY ROOM.
Each Racing Association must provide a room reserved for jockeys to prepare for a race. ()

255. OFFICIALS' STANDS.
Racing Associations must provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the Racing Commission. ()

256. PHOTO FINISH DEVICES.
Racing Associations must provide two (2) electronic photo finish devices with mirror image to photograph the finish of each race and record the time of each horse in at least hundredths of a second. ()

01. Location. The location and operation of the photo finish devices must be approved by the Racing Commission before its first use in a race. ()

02. Posting Photographs. The Racing Association must promptly post a photograph of each photo finish for win, place or show in an area accessible to the public. ()

03. Devices Calibrated. The Racing Association must ensure that the photo finish devices are calibrated before the first day of each race meet and at other times as required by the Racing Commission. ()

04. Print Provided. On request by the Racing Commission, the Racing Association must provide, without cost, a print of a photo finish to the Racing Commission. ()

05. Records. Photo finish records of each race must be maintained by the Racing Association for not less than six (6) months after the end of the race meet, or such other period as may be requested by the one of the stewards or the Racing Commission. ()

257. VIDEOTAPING SYSTEM.
Racing Associations must provide a videotaping system approved by the Racing Commission. Cameras must be located to provide clear panoramic and head-on views of each race. ()

01. Monitors. Separate monitors that simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review must be provided in the stewards' stand. ()

02. Location. The location and construction of video towers must be approved by the Racing Commission. ()

03. Stewards. The Board of stewards may, at their discretion, direct the video camera operators to videotape the activities of any horses or persons handling horses prior to, during or following a race. ()

04. Oval Track. Races run on an oval track must be recorded by at least three (3) video cameras. ()

05. Straight Course. Races run on a straight course must be recorded by at least two (2) video cameras. ()

06. Videotape Copy. Racing Associations must, upon request, provide to the Racing Commission, without cost, a copy of a videotape of a race. ()

07. Videotapes Maintained. Videotapes recorded prior to, during and following each race must be maintained by the Racing Association for not less than six (6) months after the end of the race meet, or such other period as may be requested by the Board of stewards or the Racing Commission. ()

08. Objection. Following any race in which there is an inquiry or objection, the Racing Association must display to the public on designated monitors the videotaped replays of the incident in question which were utilized by the Board of stewards in making their decision. ()

258. -- 269. (RESERVED)

270. STARTING GATE.

All horse races must utilize a starting gate approved by the Racing Commission, except that with permission of the Board of Stewards a race may be started with or without a gate. When the starting gate is used, it must be placed on the track at the direction of the Starter. ()

01. Training Hours. Racing Associations must make at least one (1) starting gate and qualified starting gate personnel available for schooling during designated training hours. ()

02. Backup Equipment. If a race is started at a place other than in a chute, the Racing Association must provide and maintain in good operating condition backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure. ()

271. DISTANCE MARKERS.

Racing Associations must provide starting point markers and distance poles in a size and position that is clearly seen from the stewards' stand. ()

272. BARNs.

Racing Associations must provide barns containing a sufficient number of stalls to accommodate all horses approved to race and all other horses approved to be on the grounds. The Racing Association's stable area configuration and facilities must be approved by the Racing Commission. ()

01. Good Repair. Racing Associations must ensure that the barns are kept clean and in good repair, have a water supply available, be well-ventilated, have proper drainage, and be constructed to be comfortable during the race meet. ()

02. Stall Size. Racing Associations must ensure that each horse is stabled in an individual box stall with minimum dimensions of ten feet by ten feet (10' x 10'). ()

273. TEST AREA.

Racing Associations must provide a test area for taking specimens of urine, blood, hair or other bodily substances or tissues for testing, and limit access to the test area to persons authorized by the commission veterinarian. ()

274. ISOLATION AREA.

Racing Associations must provide an isolation area, approved by the Racing Commission, for the care and treatment of a horse that is ordered isolated by the commission veterinarian. ()

275. SECURITY.

Racing Associations conducting live race meets must maintain security controls over their grounds. Security controls are subject to the approval of the Racing Commission. ()

01. Restricted Areas. Racing Associations must restrict access of licensees or their guests to certain areas of the grounds. Those restricted areas are the Paddock, Jockey Room, Veterinarian's Test Area, the Steward's Stand, the Mutuel Room, racing offices and any other area the Racing Association feels should be limited access. ()

02. Escort Guests. Any licensee may escort an unlicensed guest through the enclosure of a Racing Association except restricted areas. The licensee and the guest must sign in and out and identify all such persons. The licensee by signing accepts full responsibility for the safety and actions of the guest while in the enclosure. ()

03. Passes. Racing Associations may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meet are licensed as required by these rules. ()

04. Prevent Access. Racing Associations must prevent access to and remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized. ()

05. List of Security Personnel. On request by the Racing Commission, a Racing Association must provide a list of the security personnel, including the name, qualifications, training, duties duty station and area supervised by each employee. ()

06. Daily Reports. Each day, the chief of security for a Racing Association must deliver a written report to the Board of stewards regarding occurrences on Racing Association grounds on the previous day. Not later than twenty-four (24) hours after an incident occurs requiring the attention of security personnel, the chief of security must deliver to one of the stewards a written report describing the incident. The report must include the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved. ()

276. COMPLAINTS.

Racing Associations must promptly notify the Racing Commission of any complaints regarding: ()

01. Violations. Alleged violation of Section 54-2501, Idaho Code, ordinances or statutes, or a rule of the Racing Commission; ()

02. Accidents or Injuries. ()

03. Unsafe Conditions. Unsafe or unsanitary conditions for patrons, licensees or horses. ()

277. EXCLUSION AND EJECTION.

Racing Associations must immediately, upon notification by the Racing Commission, take steps to bar admittance to the racing grounds to any person who is subject to an exclusion order of the Racing Commission. ()

01. Lawful Reason. Racing Associations may eject or exclude a person for any lawful reason. Racing Associations must immediately notify one of the stewards and the Racing Commission in writing of any person ejected or excluded by the Racing Association and the reasons for the ejection or exclusion. ()

02. Readmission. Any person ejected from the grounds of a Racing Association will be denied readmission to said grounds until permission has been approved by the Racing Commission. ()

278. -- 299. (RESERVED)

SUB AREA B2: RULES GOVERNING RACING OFFICIALS
(Sections 300-399)

300. LICENSED RACING OFFICIALS.

No person may act as a racing official prior to being licensed by the Racing Commission to act in that capacity. The Racing Commission, in its sole discretion, may determine the qualifications of a racing official and, in its sole discretion, may license or not license any such official. ()

301. RACING OFFICIALS.

- 01. Officials.** Officials at a race meet may include the following: ()
- a.** Stewards; ()
 - b.** Racing Secretary; ()
 - c.** Horsemen’s Bookkeeper; ()
 - d.** Paddock Judge; ()
 - e.** Identifier; ()
 - f.** Clerk of Scales; ()
 - g.** Jockey Room Custodian; ()
 - h.** Starter; ()
 - i.** Timer; ()
 - j.** Clocker; ()
 - k.** Patrol Judge; ()
 - l.** Placing Judge; and ()
 - m.** Commission Veterinarian; ()
- 02. Other Persons.** Any other person designated by the Racing Commission. ()
- 302. RACING OFFICIAL QUALIFICATIONS.**
All racing officials must be: ()
- 01. Of Good Character.** Pass all Racing Commission background and fingerprint requirements. ()
 - 02. Experienced.** Experienced and knowledgeable in racing. ()
 - 03. Familiar with Rules.** Familiar with the duties of the position and with the Racing Commission's rules. ()
 - 04. Mentally and Physically Able.** Mentally and physically able to perform the duties of the job. ()
 - 05. In Good Standing.** In good standing and not under suspension or ineligible in any racing jurisdiction. ()
- 303. PROHIBITED PRACTICES.**
While serving in an official capacity, racing officials may not: ()
- 01. Ownership.** Participate in the sale, purchase, or ownership of any horse that is racing at the meeting. ()
 - 02. Sell Insurance.** Sell or solicit horse insurance on any horse racing at the meeting. ()
 - 03. Licensed in Other Capacity.** Be licensed in any other capacity without permission of the Racing Commission, or in case of an emergency, the permission of one of the stewards. ()

04. Wager. Wager on the outcome of any race at the race meet where they are officiating. ()

05. Consume Alcohol. Consume or be under the influence of alcohol or any prohibited substances. ()

304. REPORT OF VIOLATIONS.

Racing officials must report immediately to the Board of stewards every observed violation of any Racing Commission rules and applicable state or federal laws. ()

305. -- 309. (RESERVED)

310. COMPLAINTS AGAINST OFFICIALS.

01. Complaints Against Racing Official. Any complaint against a racing official other than a steward must be made to the Board of stewards in writing and signed by the complainant. All such complaints must be reported to the Racing Commission by the stewards, together with a report of the action taken or the recommendation of the stewards. ()

02. Complaints Against Stewards. Complaints against any steward must be made in writing to the Racing Commission and signed by the complainant. ()

03. Responsible for Subordinates. A racing official may be held responsible by the Board of stewards or the Racing Commission for the actions of any person they supervise. ()

311. SUBSTITUTE OFFICIALS.

When an emergency vacancy exists among racing officials, Board of the stewards or the racing association must fill the vacancy immediately subject to the stewards' approval. Such appointment must be reported to the Racing Commission and will be effective until the vacancy is filled in accordance with these rules. ()

312. SUBSTITUTE STEWARDS.

Should any steward be absent at race time, and no approved alternate steward be available, the remaining Board of stewards must appoint a substitute for the absent steward. If a substitute steward is appointed, the Racing Commission and the racing association must be notified by the stewards. ()

313. STEWARDS QUALIFICATIONS.

To qualify for appointment as a Steward, the appointee must meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program in association with the Universities of Arizona and Louisville and be in good standing with all racing jurisdictions. The Racing Commission may, with good cause, waive some or all of the requirements of this section. ()

314. STEWARDS GENERAL AUTHORITY.

The Board of stewards for each race meet are responsible to the Racing Commission for the conduct of the race meet in accordance with the laws of Idaho and all Racing Commission rules. ()

01. Jurisdiction. The Board of Stewards' jurisdiction in any matter commences thirty (30) days prior to the first day of a race meet and extends up to and including ninety (90) days following the conclusion of a race meet. However, the Racing Commission may, at its discretion, extend this time period if any matter is not resolved after the conclusion of ninety (90) days. ()

02. Suspensions and Fines. The Board of Stewards may suspend licenses for a period not to exceed one hundred eighty (180) days, or impose fines not to exceed twenty-five hundred dollars (\$2500) or they may impose both such fine and suspension. ()

03. Reported. All such suspensions and fines must be reported to the Racing Commission. ()

04. Stewards Enforce Rules. The Board of stewards shall enforce all Racing Commission rules and

the racing laws of the State of Idaho. ()

05. Supervision of Officials and Others. The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with any Racing Commission rules. ()

06. Resolve Conflicts. The Board of stewards have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of any Racing Commission rules. ()

07. Interpret Rules. The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules. ()

08. Other. Matters not covered by Racing Commission rules must be determined by the Board of Stewards in conformity with justice and in the best interest of racing. ()

315. NUMBER OF STEWARDS.
Three (3) Stewards must supervise each race meet; ()

01. Presiding State Steward. One (1) steward will be assigned, and compensated by the Racing Commission to be the Presiding State Steward; ()

02. Deputy State Stewards. Two (2) stewards will be assigned by the Racing Commission to be the Deputy State Stewards and will be compensated by the Racing Commission. ()

316. STEWARDS ON DUTY.
On each entry, scratch and racing day at least one (1) Steward must be on duty at regularly posted hours. Such duty includes and is not limited to scratch time and when races are drawn. On race day the full Board of Stewards must sit in regular session to exercise the authority and perform the duties imposed. ()

317. STEWARDS' PRESENCE.

01. In Stands. There must be three (3) Stewards in the stands when a race is being run. ()

02. Notice. The Board of Stewards must take notice of any questionable conduct with or without complaint thereof. ()

03. Investigations. The Board of Stewards must investigate promptly and render a decision in every protest and in every complaint properly made to them. ()

318. ORDER OF FINISH.
The Board of stewards determine the official order of finish for each race in accordance with the rules governing horse racing in Idaho. The decision of the Board of stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, must be final for purposes of distribution of the pari-mutuel wagering pool. ()

319. CANCEL WAGERING.
The Board of stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is necessary to protect the integrity of pari-mutuel wagering. ()

320. -- 329. (RESERVED)

330. SUBSTITUTE JOCKEY.
The Board of Stewards for reasonable cause may substitute a Jockey of their selection on any horse. ()

331. TEMPORARY CHARGE.
The Board of Stewards for reasonable cause may place a horse in the temporary charge of a Trainer of their selection.

()

332. STEWARDS DAILY REPORTS.

The Board of stewards must prepare a daily report, on a form approved by the Racing Commission, detailing their actions and observations made during each day's race program. The report must contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, and objections and any unusual circumstances or conditions. The report must be signed by each steward and be filed with the Racing Commission not later than twenty-four (24) hours after the end of each race day. ()

333. PRESIDING STEWARDS LOG.

The presiding state steward must maintain a detailed log of the stewards' official activities that describes all questions, disputes, protests, complaints, or objections brought to the attention of the Board of stewards and all interviews, investigations and rulings made by the Board of stewards. The log must be available at all times for inspection by the Racing Commission or its designee. ()

334. RACE MEET REPORT.

Not later than seven (7) days after the last day of a race meet, the presiding steward must submit to the Racing Commission a written report regarding the race meet that contains: ()

01. Observations. The Stewards' observations and comments regarding the conduct of the race meet and the overall conditions of the racing association grounds during the race meet; and ()

02. Recommendations. Any recommendations for improvement by the racing association or action by the Racing Commission. ()

335. STEWARD'S LIST.

The Board of stewards must maintain a Stewards' List of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing. ()

01. Ownership. The Board of stewards may place a horse on the Stewards' List when there exists a question as to the exact identification or ownership of said horse. ()

02. Inconsistent Performance. A horse which has been placed on the Stewards' List because of inconsistent performance or behavior, may be removed from the Stewards' List when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing. ()

03. Identity Established. A horse which has been placed on the Stewards' List because of questions as to the exact identification or ownership of said horse, may be removed from the Stewards' List when, in the opinion of the stewards, proof of exact identification or ownership has been established. ()

336. -- 339. (RESERVED)

340. RACING SECRETARY.

The racing secretary is responsible for the programming of races during the race meet, compiling and publishing condition books, assigning weights for handicap races, and must receive all entries, declarations and scratches. ()

341. FOAL, HEALTH, AND OTHER ELIGIBILITY CERTIFICATES.

The racing secretary is responsible for receiving, inspecting and safeguarding the foal and health certificates, Equine Infectious Anemia (EIA) test certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds. ()

01. Alteration of Sex. The racing secretary determines that the alteration of the sex of a horse has been recorded on the horse's foal certificate and report such to the appropriate breed registry and past performance services. ()

02. Posterior Digital Neurectomy. The racing secretary must record on a horse's registration certificate when a posterior digital neurectomy (heel nerving) is performed on that horse. ()

342. LIST OF BRED FILLIES AND MARES.

The racing secretary must maintain a list of all fillies or mares on racing association grounds who have been covered by a stallion. The list must also contain the name of the stallion to which each filly or mare was bred and be made available for inspection by other licensees participating in the race meet. ()

343. ALLOCATION OF STALLS.

The racing secretary determines that stables are properly assigned and maintain a record of arrivals and departures of all horses stabled on racing association grounds. ()

344. CONDITIONS.

The racing secretary determines that all conditions and eligibility requirements for entering races meet Racing Commission rules and cause them to be published to owners, trainers and the Racing Commission and be posted in the racing secretary's office. ()

01. Winnings Included. For the purpose of establishing conditions, winnings must be considered to include all monies and prizes won up to the time of the start of a race. ()

02. Winnings Calculated. Winnings during the year must be calculated by the racing secretary from the preceding January 1. ()

345. -- 349. (RESERVED)

350. LISTING OF HORSES.

The racing secretary must: ()

01. Examine Entry Blanks. Examine all entry blanks and declarations to verify information as set forth therein; ()

02. Select Horses. Select the horses to start and the also eligible horses from the declarations in accordance with Racing Commission rules. ()

351. POSTING OF ENTRIES.

Upon completion of the draw each day, the racing secretary must post a list of entries in a conspicuous location in the racing office and make the list available to the media. ()

352. DAILY PROGRAM.

The racing secretary must publish the official daily program, ensuring the accuracy therein of the following information: ()

01. Sequence of Races. Sequence of races to be run and post time for the first race; ()

02. Purse, Conditions, and Distance. The purse, conditions and distance for each race, and current track record for such distance; ()

03. Owner's Name. The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried; ()

04. Trainer and Jockey. The name of the trainer and the name of the jockey named for each horse together with the weight to be carried; ()

05. Post Position. The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation; ()

06. Horse Identification. Identification of each horse by name, color, sex, age, sire and dam; and ()

07. Other Information. Such other information as may be requested by the racing association or the Racing Commission. ()

354. NOMINATIONS AND DECLARATIONS.

The racing secretary must examine nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication. ()

355. -- 359. (RESERVED)

360. STAKES AND ENTRANCE MONEY RECORDS.

The racing secretary is the caretaker of the permanent records of all stakes and verifies that all entrance monies due are paid prior to entry for races conducted at the meeting. ()

361. HORSEMEN'S BOOKKEEPER.

The horsemen's bookkeeper needs to maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the racing association and Racing Commission may prescribe. ()

362. FINANCIAL ASSURANCE.

The horsemen's bookkeeper needs to be insured against crime or employee dishonesty in a manner approved by the Racing Commission. ()

363. HORSEMEN'S BOOKKEEPER RECORDS.

The records must include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meet who has funds due or on deposit in the horsemen's account. ()

01. Records Kept Separate. All records of the horsemen's bookkeeper must be kept separate and apart from the records of the racing association. ()

02. Records Subject to Inspection. All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the Racing Commission at any time. ()

03. Record of Winnings. The horsemen's bookkeeper must maintain the record of applicable winning races on all apprentice certificates at the meeting. ()

04. Apprentice Jockey Certificates. The horsemen's bookkeeper must release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet. ()

364. MONIES AND FUNDS ON ACCOUNT.

All monies and funds on account with the horsemen's bookkeeper must be maintained: ()

01. Separate. Separate and apart from monies and funds of the racing association; ()

02. Insured Account. In an account insured by the Federal Deposit and Insurance Corporation or the Federal Savings and Loan Insurance Corporation. ()

365. PAYMENT OF PURSES.

The horsemen's bookkeeper must receive, maintain and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into horsemen's bookkeeper possession in accordance with the provisions of Racing Commission rules and any applicable State or Federal statutes. ()

01. Disbursement Upon Request. The horsemen's bookkeeper must disburse the purse of each race and all stakes, entrance money, jockey fees and purchase money in claiming races, along with all applicable taxes, upon request, within forty-eight (48) hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the Board of stewards or the Racing Commission, except that minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory(ies). ()

02. No Prior Request. Absent a prior request, the horsemen's bookkeeper must disburse monies to the persons entitled to receive same within fifteen (15) days after the last race day of the race meet, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards, and provided further that no protest or appeal has been filed with the Board of stewards or the Racing Commission. ()

03. Disbursement Not A Finding. The fact that purse money has been distributed prior to the issuance of a laboratory report may not be deemed a finding that no chemical substance has been administered, in violation of any Racing Commission rules, to the horse earning such purse money. ()

04. Protests. In the event a protest or appeal has been filed with the Board of stewards or the Racing Commission, the horsemen's bookkeeper must disburse the purse within forty-eight (48) hours of receipt of dismissal or a final non-appealable order disposing of such protest or appeal. ()

366. OTHER MONIES.

The horsemen's bookkeeper may accept monies due belonging to other organizations or recognized race meets, provided prompt return is made to the organization to which the money is due. ()

367. PADDOCK JUDGE.

The Paddock Judge is in charge of the paddock and must comply with IDAPA 11.04.01.B.B5, "Rules Governing Live Horse Races." ()

368. PADDOCK JUDGE'S LIST.

The paddock judge must maintain a list of horses which may not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing. ()

01. Provide List to Stewards. At the end of each race day, the paddock judge must provide a copy of the List to the stewards. ()

02. Removal from List. To be removed from the paddock judge's List, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and one of the stewards that the horse is capable of performing safely in the paddock. ()

369. HORSE IDENTIFIER.

The Horse Identifier is responsible for positively identifying all horses entered to race and must: ()

01. Inspection. Inspect, identify and prepare I.D. cards by using the lip tattoo or microchip, markings from photos, written descriptions, or National Animal Identification System compliant devices. ()

02. Examination. Examine every starter in the paddock for sex, color, markings and lip tattoo or microchip among other identification method approved by the appropriate breed registry and the Racing Commission for comparison with its registration certificate to verify the horse's identity; and ()

03. Report Violation. Report to the Board of stewards any horse not properly identified or whose registration certificate is not in conformity with any Racing Commission rules. ()

370. CLERK OF SCALES.

The Clerk of the Scales must: ()

01. Verify Presence. Verify the presence of all jockeys in the jockeys' room at the appointed time and verify that all such jockeys have a current jockey's license issued by the Racing Commission; ()

02. Verify Weight. Verify the correct weight of each jockey according to IDAPA 11.04.01.B.B5 “Rules Governing Live Horse Races”; ()

03. Report Infractions. Promptly report to the Board of stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct; ()

04. Record Data. Record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day; and ()

05. Assume Duties. Assume the duties of the jockey room custodian in his absence. ()

371. JOCKEY ROOM CUSTODIAN.

The jockey room custodian must: ()

01. Supervise Conduct. Supervise the conduct of the jockeys and their attendants while they are in the jockey room; ()

02. Ensure Safety. Ensure all jockeys are in the correct colors and wearing Racing Commission approved riding vest and helmet before leaving the jockey room to prepare for mounting their horses; ()

03. Display Program. Keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available; ()

04. Secure Jockey Room. Keep unauthorized persons out of the jockey room; and ()

05. Report to Stewards. Report to the Board of stewards any unusual occurrences in the jockey room. ()

372. STARTER.

The Starter must have complete jurisdiction over the starting gate, the starting of horses in accordance with IDAPA 11.04.01.B.B5 “Rules Governing Live Horse Races.” ()

01. Assess Jockey’s Ability. The Starter must assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and make said assessment known to the stewards. ()

373. ASSISTANT STARTERS.

Assistant Starters are under the direct control and responsibility of the Starter. ()

374. STARTER’S LIST.

No horse will be permitted to start in a race unless approval is given by the starter. The starter must maintain a Starter's List of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse will be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the Starter's List. Schooling must be under the direct supervision of the starter. ()

375. TIMER.

In the absence of an electronic timer, the timer must: ()

01. Record Time. Accurately record the time elapsed between the start and finish of each race; ()

02. Record From the Instant the First Horse Leaves. Record from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line; ()

03. Post Quarter Times. At a racetrack equipped with an appropriate infield totalizator board, post the quarter times (splits) for thoroughbred races in fractions as a race is being run. For quarter horse races, the timer must post the official times in hundredths of a second; ()

04. Time All Races. For back-up purposes, also use a stopwatch to time all races. In time trials, ensure that at least three (3) stopwatches are used by one of the stewards or their designees; and ()

05. Maintain Record. Maintain a printed record of fractional and finish times of each race and have same available for inspection by the stewards or the Racing Commission on request. ()

376. CLOCKER.

The clocker must be present during training hours at each track on racing association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout and must: ()

01. List of Workouts. Each day, prepare a list of workouts that describes the name of each horse which worked along with the distance and time of each horse's workout. ()

02. Deliver List. At the conclusion of training hours, deliver a copy of the list of workouts to one of the stewards and the racing secretary. ()

377. PATROL JUDGE.

The patrol judge, when utilized, is responsible for observing the race and reporting information concerning the race to the stewards. If the track's video replay system is deemed adequate, use of patrol judges is optional. ()

378. PLACING JUDGE.

The placing judges, if utilized, determine the order of finish in a race as the horses pass the finish line. ()

379. -- 384. (RESERVED)

385. PHOTO FINISH.

In the event the placing judges or the Board of stewards request a photo of the finish, the photo finish sign must be posted on the totalizator board. ()

01. Order of Finish. Following their review of the photo finish, the placing judges, with the approval of the stewards, determine the exact order of finish for all horses participating in the race. ()

02. Photographic Print. In the event a photo was requested, the placing judges must cause a photographic print of said finish to be produced. The finish photograph, when needed, will be used by the placing judges as an aid in determining the correct order of finish. ()

03. Photographic Prints Displayed. Upon determination of the correct order of finish of a race in which the placing judges have utilized a photographic print to determine the first four (4) finishers, the placing judges must cause prints of said photograph to be displayed publicly in the grandstand and clubhouse areas of the racetrack. ()

386. DEAD HEATS.

In the event the placing judges determine that two (2) or more horses finished the race simultaneously and cannot be separated as to their order of finish, a dead heat must, with the approval of the stewards, be declared. ()

387. COMMISSION VETERINARIAN QUALIFICATIONS.

The Commission Veterinarian must be a graduate of an accredited school of veterinary medicine and licensed to practice veterinary medicine in Idaho. ()

388. COMMISSION VETERINARIAN AUTHORITY.

The Commission Veterinarian has the authority to supervise the actions of veterinarians licensed by the Racing

Commission while they are practicing at any location under the jurisdiction of the Racing Commission in accordance with IDAPA 11.04.01.B.B4, “Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances, and Drug Testing of Horses.” ()

389. EXAMINATION OF HORSES.

01. Examination of Horses. The Commission Veterinarian must examine each horse prior to racing and report to the Board of Stewards any horse that is not of the age or condition that is satisfactory for the type of racing to be conducted at the meeting. ()

02. Declared Ineligible. The Board of Stewards may declare any such horse as reported as ineligible to be entered or started at the meeting until such time as the Commission Veterinarian certifies such horse to be in race sound condition. ()

03. Present In Paddock. The Commission Veterinarian must be present in the paddock on the race course during the saddling, the parade and at the starting gate and until the horses are dispatched from the gate for the race. ()

04. Emergencies. The Commission Veterinarian has the authority to treat any horse in event of an emergency, accident or injury, the details of which must be immediately reported to the Stewards. ()

05. Humanely Destroy. The Commission Veterinarian is authorized to humanely destroy any horse which is so seriously injured that it is in the best interest of racing to so act and every horse owner and trainer participating in a race in Idaho does consent thereto. This authorization to destroy the horse is extended only in the event the owner or trainer is not present. ()

390. COMMISSION VETERINARIAN.

The Commission Veterinarian is responsible to the Board of Stewards for the conduct of horses and their attendants in the receiving and detention barn. ()

391. ADDITIONAL RACING OFFICIALS.

The Racing Commission may create additional racing official positions, as needed. Persons selected for these positions are considered racing officials and are subject to the general qualifications outlined in this chapter. ()

392. -- 399. (RESERVED)

**SUB AREA B3: OWNERS, TRAINERS, AUTHORIZED AGENTS, JOCKEYS, APPRENTICE JOCKEYS,
AND JOCKEY AGENTS
(Sections 400-460)**

400. OWNERS AND TRAINERS.

All Owners and Trainers of horses and their stable employees are subject to the Laws of Idaho and the Rules promulgated by the Racing Commission upon occupancy of stabling accommodations on the grounds of a Racing Association or upon entering a horse to run in a race on a Racing Association track. ()

401. ENTER, SEARCH, AND INSPECT.

Every Racing Association, the Racing Commission, one of the Stewards or trained and qualified Agents of the Idaho State Police, has the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. ()

402. EMPLOYEES.

Any Owner or Trainer that employs any person in a capacity that needs to be licensed by the Racing Commission prior to the Racing Commission granting such a license will be subject to suspension or fine, or both, to be determined by the Board of Stewards. ()

403. BRIBES, GIFTS, AND GRATUITIES.

No Owner or Trainer may accept or offer, directly or indirectly, any bribe, gift or gratuity in any form which might influence the result of any race or tend to do so. ()

404. ILLNESS OF HORSES.

The Owner or Trainer or their representative must immediately report any illness or an unusual condition of his horse to the Racing Secretary, Board of Stewards or Commission Veterinarian. ()

405. TRAINER CHANGES.

If an Owner changes trainers, the racing secretary and one of the stewards must be notified within twenty-four (24) hours of that change. ()

406. REPRESENTATION FOR ENTRIES.

A Trainer licensed in Idaho may represent the Owner in the matter of entries, declarations and the employment of Jockeys. ()

406. -- 409. (RESERVED)

410. RESTRICTIONS ON OWNERS AND TRAINERS.

No Owner or Trainer may enter or start a horse that: ()

01. Is Not Sound. Is not in sound competitive racing condition. ()

02. Has Been Nerved. ()

a. Horses that have had posterior digital neurectomy (heel nerved) may be permitted to race subject to the pre-race veterinary examination and subject to posting with the racing secretary and being recorded on its foal certificate. ()

b. Horses that have been nerved, blocked with alcohol or any other medical drug that desensitizes the nerves, other than posterior digital nerves, will not be permitted to race. ()

03. Impaired Vision. Has impaired vision in both eyes. ()

411. POWERS AND DUTIES OF AUTHORIZED AGENTS.

A licensed Authorized Agent may perform on behalf of a licensed owner-principal all acts as relate to racing, as specified in the Racing Commission approved agency appointment, that could be performed by the principal if such principal were present. The acts of the Authorized Agent are deemed the acts of his licensed principal and the principal accepts responsibility for the Authorized Agent's acts. ()

01. Documents. In executing any document on behalf of the principal, the Authorized agent must clearly identify the Authorized Agent and the owner-principal. ()

02. Ownership Disclosure. Authorized Agents are responsible for disclosure of the true and entire ownership of each horse for which they have authority. Any change in ownership must be reported immediately to, and approved by, the Board of stewards and recorded by the racing secretary. ()

03. Entering a Claim. When an Authorized Agent enters a claim for the account of a principal, the name of the licensed Owner for whom the claim is being made and the name of the Authorized Agent must appear on the claim slip or card. ()

412. TRAINER IS ABSOLUTE INSURER.

The Trainer is the absolute insurer of, and responsible for, the condition of the horses entered in a race regardless of the acts of third parties. ()

01. Chemical Tests. Should the analysis of blood, urine, hair samples or tests of other materials prove positive, showing the presence of any chemical or drug of any kind or description, except as permitted in IDAPA 11.04.01.B.B4, “Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses,” the Trainer of the horse will be fined or suspended, or both. ()

02. Trainer Absent. When a Trainer is absent from the stable or the grounds for a period of more than two (2) days and the Trainer’s horses are to be entered, a substitute licensed Trainer must assume the complete responsibility of the horses entered or running. Such licensed Trainer must sign a form in the presence of the Board of Stewards accepting complete responsibility for the horse or horses being entered or running. ()

413. SAFETY EQUIPMENT.
The Trainer is responsible to ensure that every Jockey and exercise person wears an approved helmet properly fastened when exercising horses. ()

414. DISQUALIFIED PERSON.
No Trainer may have charge or supervision of any horse owned, in whole or part, by a disqualified person. ()

415. HORSES IN PADDOCK AT APPOINTED TIME.
All Trainers must have their horses in the paddock in accordance with IDAPA 11.04.01.B.B5 “Rules Governing Live Horse Races,” Subsection 603.02. ()

416. TRAINER’S PRESENCE IN PADDOCK.
All Trainers must attend their horses in the paddock and be present to supervise saddling unless the permission of a steward has been obtained to send another licensed Trainer to substitute. ()

417. PREVENTING JOCKEYS FROM RIDING.
No Owner or Trainer may employ a Jockey for the purpose of preventing him from riding for another Trainer in any race. ()

418. -- 429. (RESERVED)

430. PHYSICAL EXAMINATION.
The Board of Stewards may require any Jockey to be examined by a licensed medical professional at any time and may refuse to allow any Jockey to ride until such examination has been satisfactorily completed. ()

431. JOCKEY FALLS FROM HORSE.
In the event any Jockey falls or is thrown from a mount prior to, during or after a race, the Board of Stewards may refuse to allow that Jockey to ride until examined by a licensed medical professional and determined by such examiner to be physically fit to ride. ()

432. JOCKEYS OBLIGATIONS.
All Jockeys must faithfully fulfill all engagements to ride except when excused by the Board of stewards. An excuse may be given by a medical professional with the approval of the Board of stewards. ()

433. RACING COLORS.
All Jockeys must wear the colors of the Owner or Owners of the horse being ridden, except by special permission of the Board of Stewards or where approved standard colors are used. ()

434. SAFETY EQUIPMENT.
All Jockeys must wear the following safety equipment: ()

01. Helmet. When mounted, a fastened protective helmet approved by the Jockey Guild. ()

02. Safety Vest. A safety vest when riding in any official or exhibition race that weighs no more than two (2) pounds, and is designed to provide shock absorbing protection to the upper body of at least a rating of five (5), as defined by the British Equestrian Trade Racing Association. ()

435. JOCKEY’S VALET.

No Jockey may have a valet other than one (1) provided by the Racing Association. ()

436. -- 439. (RESERVED)

440. JOCKEYS WEIGHED.

Every Jockey who is engaged in a race must report to the Jockey’s Room on the day of the race at the time required by the Stewards. ()

01. Engagements. The Jockey’s engagements and overweight, if any, must then be reported to the clerk of the scales and, thereafter, the Jockey may not leave the Jockey Room except to view the races from a point approved by the Board of Stewards or to ride in a race until all engagements of the day have been fulfilled. ()

02. Weighed Out. Jockeys need to present themselves to be weighed out at the time fixed by the clerk of the scales. ()

441. RESTRICTIONS ON JOCKEYS.

01. Owner. No licensed Jockey may be the Owner or Trainer of any race horse. ()

02. Betting. No Jockey may make a bet on any race nor accept the promise or the token of any bet with respect to the race in which riding, except through or from the Owner or Trainer of the horse being ridden and then only that horse. ()

442. JOCKEY’S FEES.

Jockey’s riding fees for a race meet must be approved by the Racing Commission. ()

01. Engagements. If any Owner or Trainer engages two (2) or more Jockeys for the same race, each engaged Jockey not riding in the race must be paid the losing fee. The proper fee must be paid the Jockey riding. ()

02. Fees. A Jockey’s fee is considered earned when the Jockey is weighed out by the Clerk of the Scales. The fee is not considered earned if the Jockey takes himself off of his mount where injury to the horse or rider is not involved. Any conditions or considerations not covered by this Section are at the discretion of the stewards. ()

03. Posted Fees. The fee to a Jockey in all races must be posted prominently and provided to the Horsemen’s Bookkeeper by the Racing Association at each race meet. ()

04. Dead Heat. In a dead heat the Jockeys involved will divide equally the total fees they would have received individually had one (1) beaten the other or others. The Owners of the horses involved must pay an equal share of the fees. ()

443. JOCKEY SUSPENSIONS.

A Jockey who is under suspension will not be permitted to fulfill any engagements, including stake races. ()

01. Suspended in Another Jurisdiction. A Jockey under suspension in any other State will not be permitted to ride in Idaho during such suspension. ()

02. Time Suspension Begins. The suspension of a Jockey for an offense not including fraud begins at the time set by the stewards. ()

03. Temporary Suspensions. A Jockey temporarily suspended may be permitted by the Board of Stewards to exercise or gallop horses during the morning hours. ()

444. APPRENTICE JOCKEYS.

Apprentice Jockeys are bound by all the rules for Jockeys, except in the instance of a specific exception for an

Apprentice Jockey. ()

01. End of Apprenticeship. The apprenticeship automatically terminates one (1) year from the date of the apprentice's fifth winning ride or on the first anniversary of the date of issuance of the license as an Apprentice Jockey if during such first year the apprentice has ridden at least forty-five (45) thoroughbred winners. Otherwise, the apprenticeship automatically terminates after the first anniversary date on the date of the forty-fifth winning mount is ridden by the apprentice or on the date of the third anniversary of the first apprentice license, whichever comes first. ()

02. Extend Apprenticeship Termination. For good cause, the Racing Commission may extend the termination date of any apprenticeship or the conditions under which the apprenticeship may be granted. ()

03. Races Considered. Races other than recognized thoroughbred races in the United States, Canada or Mexico reported in the Daily Racing Form or other similar official publication will not be considered in determining eligibility for a license as Apprentice Jockey; provided, however, that any person who has ridden as a licensed Jockey at any recognized meeting in the United States or other country will have the burden of establishing that the granting of an apprentice license to such person is in the best interest of thoroughbred racing in Idaho. ()

445. MANAGEMENT OF APPRENTICE JOCKEYS.

No person other than an Owner, Trainer, Jockey Agent or an Authorized Agent of an Owner may make engagements for or manage Apprentice Jockeys. ()

446. APPRENTICE WEIGHT ALLOWANCE.

An Apprentice Jockey must ride with a five (5) pound weight allowance beginning with the first mount for one (1) full year from the date of the fifth winning mount. ()

01. After One Year. If after riding one (1) full year from the date of the fifth winning mount the Apprentice Jockey has failed to ride a total of forty (40) winners from the date of the first winning mount, the apprentice must continue to ride with a five (5) pound weight allowance for one (1) more year from the date of the fifth winning mount or until the apprentice has ridden a total of forty (40) winners, whichever comes first. ()

02. Unable to Ride. If an Apprentice Jockey is unable to ride for a period of fourteen (14) consecutive days or more from the date of the apprentice's fifth winning mount because of service in the Armed Forces of the United States or because of physical disablement, the Racing Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such Apprentice Jockey was unable to ride. ()

447. APPRENTICE JOCKEY CONTRACTS.

An Apprentice Jockey may be granted an apprentice certificate in lieu of an apprentice contract. The apprentice certificate grants an apprentice all the allowances and conditions granted to the apprentice who is under contract. ()

01. Forms. Apprentice contracts entered into in the state of Idaho must be made on forms supplied by the Idaho State Racing Commission and a copy be filed with the Racing Commission. ()

02. Filed With Racing Commission. A copy of all apprentice contracts, wherever entered into, must be filed with the Racing Commission. ()

03. Contract Transferred. If an apprentice contract is transferred, said transfer must be approved by the Board of Stewards and registered with the Racing Commission by both the transferrer and the transferor. ()

04. Certificate. An application for a license as an Apprentice Jockey must be accompanied by an original or photo static copy of his birth certificate or an apprentice certificate. ()

448. ONLY ONE JOCKEY AGENT.

No Jockey may have more than one (1) agent. All engagements to ride, other than those for contract employers, must

be made by the Jockey’s Agent. A Jockey may make his own engagements. ()

449. JOCKEY AGENT.

No person may act as a Jockey Agent prior to being licensed by the Racing Commission. Each Jockey Agent is permitted to make the riding engagements of three (3) riders only; two (2) Jockeys and one (1) Apprentice Jockey. ()

01. Other Jockeys. No Jockey Agent may make or assist in making any engagement for any rider other than those he is licensed to represent. ()

02. Records. Each Jockey Agent must keep a record of all engagements made for the represented riders that is up to date and ready at all times for inspection by the Stewards. ()

03. Notify Stewards. If any Jockey Agent gives up the making of engagements for any rider, the Board of Stewards must be immediately provided a written list of any unfilled engagements. All rival claims for the services of a rider will be adjusted by the Stewards. ()

450. GIVING INFORMATION.

No Jockey Agent may give to anyone, directly or indirectly, any information or advice pertaining to a race or engage in the practice commonly known as “touting” for the purpose of influencing or tending to influence any person in the making of a wager on any race. ()

451. JOCKEY AGENT ACCESS.

No Jockey Agent is permitted within the saddling enclosure during racing hours; nor may said Agent have access to the Jockey Room at any time; nor may said Agent be allowed on the race track at the conclusion of any race run; nor may said Agent communicate with any Jockey during racing hours except with the approval of the Stewards. ()

452. -- 499. (RESERVED)

SUB AREA B4: EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS, BANNED SUBSTANCES AND DRUG TESTING OF HORSES
(Sections 500-599)

500. ENTER, SEARCH AND INSPECT.

Every Racing Association, the Racing Commission, the Board of Stewards or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. ()

501. AUTHORITY OF THE COMMISSION VETERINARIAN.

The Commission Veterinarian has the authority to supervise the actions of veterinarians licensed by the Racing Commission while they are practicing at any location under the jurisdiction of the Racing Commission. The commission veterinarian recommends to the Board of Stewards or the Racing Commission disciplinary actions for any veterinarian who violates any Racing Commission rule. ()

502. REPORT OF DISEASE.

All practicing veterinarians must promptly notify the commission veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his charge. ()

503. RESTRICTIONS OF WAGERING.

A practicing veterinarian may not wager on the outcome of any race if the practicing veterinarian has treated a horse participating in the race within the past thirty (30) days. ()

504. TREATMENT RESTRICTIONS.

Except as otherwise provided by these rules, no person other than a veterinarian licensed to practice veterinary

medicine in Idaho and licensed by the Racing Commission may administer a prescription or controlled medication, drug, chemical or other substance, including any medication, drug, chemical or other substance by injection, to a horse at any location under the jurisdiction of the Racing Commission. ()

505. ADMINISTRATION OF NON-INJECTABLE SUBSTANCES.

These rules do not apply to the administration of the following substances in approved quantitative levels present in post-race samples, if any, or as they may interfere with post-race testing: ()

01. Nutritional Supplement. A recognized non-injectable nutritional supplement or other substance approved by the commission veterinarian; ()

02. Prescription. A non-injectable substance on the direction or by prescription of a licensed veterinarian; or ()

03. Non-Prescription. A non-injectable non-prescription medication or substance. ()

506. HYPODERMIC NEEDLES.

01. Possession Prohibited. No person may possess a hypodermic needle, syringe or injectable of any kind on Racing Association grounds, unless approved by the Racing Commission. ()

02. Disposable Needles. At any location under the jurisdiction of the Racing Commission, licensed veterinarians may use only one-time disposable needles, and must dispose of them in a manner approved by the Racing Commission. ()

03. Medical Condition. If a person has a medical condition that makes it necessary to have a syringe at any location under the jurisdiction of the Racing Commission, that person must: ()

a. Request permission of the Board of Stewards or the Racing Commission in writing; ()

b. Furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe; and ()

c. Comply with any conditions and restrictions set by the Board of Stewards or the Racing Commission. ()

507. -- 519. (RESERVED)

520. BANNED SUBSTANCES.

01. Banned Substances. Any medication, drug, chemical, narcotic, anesthetic, or analgesic that is not specifically permitted by these rules is banned from use in horses that are eligible to race in Idaho and are located on the grounds of a racing association. ()

02. Administration by Veterinarians. All practicing veterinarians administering drugs, medications or other substances are responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with these rules. ()

521. NON-PERMITTED MEDICATION.

If the Board of Stewards find that any non-permitted medication, drug, chemical, narcotic, anesthetic, or analgesic has been administered to a horse in such a manner that it is present in a pre-race or post-race test sample, such presence constitutes prima facie evidence of a violation of these rules. ()

522. MEDICATIONS.

01. Taking Samples. The Commission Veterinarian, the Racing Commission, or any member of the Board of Stewards may take samples of any medicines or other materials suspected of containing improper

medication, drugs or chemicals that would affect the racing condition of a horse in a race. ()

02. Location. Any substances found in stables or elsewhere on the grounds of a racing association or in the possession of any person connected with racing are subject to sampling. ()

03. Testing. Substances sampled must be delivered to a laboratory designated by the Racing Commission for testing. ()

523. ANTI-ULCER MEDICATIONS.

The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered: ()

01. Cimetidine (Tagamet®). Dosage 8-20 mg/kg PO BID-TID. ()

02. Omeprazole (Gastrogard®). Dosage 2.2 grams PO SID. ()

03. Ranitidine (Zantac®). Dosage 8 mg/kg PO BID. ()

524. ENVIRONMENTAL CONTAMINANTS AND SUBSTANCES OF HUMAN USE.

The following substances can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases. ()

01. Caffeine. Caffeine is recognized as a substance of human use and could be found in the horse due to its close association with humans. The regulatory threshold for caffeine is 100 nanograms of caffeine per milliliter of serum or plasma. ()

02. Positive Test. If the preponderance of evidence presented in a hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer. ()

525. TESTING FACILITIES.

The Racing Commission may require the Racing Association to provide such facilities for medication, drug or other tests of a horse as may be required by the Racing Commission. ()

526. LABORATORY MINIMUM STANDARDS.

Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards: ()

01. Lab Accreditation. A testing laboratory must be accredited by a recognized accrediting body to any standards set forth and required by the Racing Commission. ()

02. Instrumentation for Screening. A testing laboratory must have, or have access to, LC/MS instrumentation for screening or confirmation purposes, or both. ()

03. Standards of Detection. A testing laboratory must be able to meet minimum standards of detection, which is defined as the specific concentration at which a laboratory is expected to detect the presence of a particular drug or metabolite, or both, or by the adoption of a regulatory threshold. ()

527. TESTING.

01. Testing. The official winning horse and any other horse ordered by the Racing Commission or the Board of Stewards must be taken to the testing area to have a blood, urine, saliva, hair, or any other acceptable specimen taken at the direction of the Commission Veterinarian. ()

02. Examination. Examination of the race winner or other designated horses must be made by the Commission Veterinarian or his assistant. ()

03. Specimens. All specimens must be collected by the Commission Veterinarian or his assistant. ()

528. OUT-OF-COMPETITION TESTING.

01. Racing Commission Authority to Request Test. The Racing Commission may request an out-of-competition testing (OCT) sample be collected and screened for any violation of Section 575 of these rules. ()

02. Conditions for Racing Commission Request. The Racing Commission may request any owner or trainer currently licensed by the Racing Commission to allow for an OCT sample be collected under any of the following conditions: ()

a. The horse is stabled on the grounds of a licensed race meet. ()

b. The horse is nominated or eligible for a stake or handicap race. ()

c. The registration certificate of the horse is currently on file with the racing association. If the horse selected is not currently stabled on the grounds, the owner or trainer shall present the horse to the test barn at a time designated by the commission. ()

03. Horse Selection. Horses will be selected for OCT by a Racing Commission veterinarian, steward, or executive secretary. ()

04. Sample Collection and Split Samples. Sample collection and split samples will be done in accordance with Sections 527 through 545 of these rules. ()

05. Refusal to Submit. Refusal to submit to an OCT sample request will result in penalties consistent with Sections 574, 577, and 578 of these rules. ()

06. Qualified Horse. If a horse that qualifies under Subsection 528.02 of this rule is selected for testing and is not stabled at a race meet licensed by the Racing Commission, the Racing Commission may approve a regulatory veterinarian from another jurisdiction to collect and submit the sample providing the process complies with Sections 527 through 545 of these rules. ()

07. Penalties. Penalties for a report of a positive laboratory finding in violation of this Section 111 will be consistent with Sections 574, 577, and 578 of these rules. ()

529. RANDOM OR EXTRA TESTING.

Random or extra testing may be required by the Board of Stewards or the Racing Commission at any time on any horse on Racing Association grounds. Unless otherwise directed by the Board of Stewards or the Commission Veterinarian, a horse that is selected for testing must be taken directly to the testing area. ()

530. -- 539. (RESERVED)

540. TRAINER PRESENT.

01. Present During Testing. The Trainer, or his authorized representative, must be present in the testing area when a blood, urine, saliva, hair, or any other acceptable specimen is taken from a horse. ()

02. Tag Signed. The sample tag must be signed by the Trainer or his representative, as witness to the taking of the specimen. ()

03. Refusal. Willful failure to be present at or a refusal to allow the taking of such specimen, or any act or threat to impede or prevent or otherwise interfere therewith, subjects the person or persons doing so to immediate suspension by the Board of Stewards and the matter will be referred to the Racing Commission for such further penalty as may be determined. ()

121. -- 129. (RESERVED)

541. SPECIMENS.

01. Delivery to Approved Laboratory. All specimens taken by or under direction of the Commission Veterinarian, or other authorized representative of the Racing Commission, must be delivered to the laboratory approved by the Racing Commission for official analysis. ()

02. Number and Date. Each specimen must be marked by number and date and may also bear such information as may be essential to its proper analysis. ()

03. Identity. The identity of the horse from which the specimen was taken or the identity of its Owner, Trainer, Jockey, or stable must not be revealed to the laboratory. ()

04. Container. The container of each specimen must be sealed as soon as the specimen is placed therein and must bear the name of the Racing Commission. ()

542. DETERMINATION OF SAMPLE.

01. Minimum Sample. The commission veterinarian will determine a minimum sample requirement for the primary testing laboratory. ()

02. Less Than The Minimum. If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen must be sent to the primary testing laboratory. ()

03. More Than The Minimum. If a specimen obtained is greater than the minimum sample requirement, the portion of the sample that is greater than the minimum sample requirement may be secured as the split sample if proper storage capabilities exist. ()

543. STORAGE AND SHIPMENT OF SPLIT SAMPLES.

Split samples obtained in accordance with Subsection 542.03 of these rules, must be secured and made available for further testing in accordance with the following procedures: ()

01. Secured. A split sample must be secured under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. ()

02. Transfer of Samples. Split samples must then be transferred to a freezer or other approved storage container, at a secure location approved by the Racing Commission. ()

544. TESTING SPLIT SAMPLES.

After having been notified that a written report from a primary laboratory stating that a prohibited substance has been identified in a specimen obtained pursuant to these rules, a trainer or owner of a horse may request that a split sample, corresponding to the portion of the specimen tested by the primary laboratory, be sent to another laboratory approved by the Racing Commission. ()

01. Submission of Testing Request. A formal request for split sample testing must be made in writing and delivered to the Board of Stewards not later than three (3) business days after the trainer of the horse receives written notice of the findings of the primary laboratory. The request must include the requesting trainer or owner's top three (3) referee laboratory choices. Any request for split sample testing not received by the specified deadline, and/or without all the required information, is considered invalid. ()

02. Lab's Willingness to Test. Upon receipt of the written request for split sample testing, the Racing Commission will confirm the referee laboratory has agreed to accommodate the request and provide official test results to the Racing Commission. The Racing Commission will identify the confirmed referee laboratory to the requesting owner or trainer to arrange for payment of shipping costs and testing services costs. ()

03. Shipping and Testing Fees. The requesting owner or trainer is entirely responsible for all costs and fees associated with sample shipment and testing services. Payment for sample shipment must be made to the Commission Veterinarian, or his authorized designee, prior to shipment of the split sample. Once the Racing Commission has received confirmation of payment of necessary fees required for split sample testing, the requested split samples will be shipped to the referee laboratory within ten (10) business days. Shipments are mailed only on Monday, Tuesday or Wednesday to avoid the samples sitting in a warehouse unrefrigerated over a weekend if there is a problem in transit. ()

04. Unforeseen Circumstances. ()

a. If the Racing Commission is unable to secure the services of a referee laboratory, the Racing Commission has the option to request the primary laboratory to conduct the split sample testing. The owner and trainer affected will be notified by the Racing Commission. ()

b. If the Racing Commission is unable to contact the affected trainer or owner by telephone or last known location, the Racing Commission may proceed with split sample testing by the primary laboratory. ()

c. If an Act of God, power failure, accident, strike, or other action that is beyond the control of the Racing Commission prevents a split sample from being tested, the test results of the primary laboratory will be accepted as prima facie evidence. ()

05. Split Sample Test Results. The referee laboratory sends the results of the split sample test to the Racing Commission and the Racing Commission will forward those results simultaneously to the requesting owner or trainer as quickly as possible. ()

a. If the split sample testing confirms the findings of the primary laboratory, it is considered a prima facie violation of the applicable provisions of this chapter. ()

b. If the split sample testing does not substantially confirm the findings of the primary laboratory, it does not constitute a prima facie violation of this chapter and no penalty will be imposed by the Racing Commission. ()

545. CHAIN OF CUSTODY.
The Racing Commission will provide a split sample chain of custody verification form. ()

546. -- 549. (RESERVED)

550. NON-STEROIDAL ANTI-INFLAMMATORY DRUGS.

01. Exception. No horses may be entered into a race utilizing a Non-Steroidal Anti-Inflammatory Drug, except DMSO, unless: ()

a. The Trainer and Veterinarian of the horse submit to the Commission Veterinarian the Non-Steroidal Anti-Inflammatory Drug Request Form; and ()

b. The Commission Veterinarian has granted written approval for the use. ()

02. Procedures. The Commission Veterinarian must establish and publish reasonable procedures pertaining to use of the Non-Steroidal Anti-Inflammatory Drug Request Form. ()

03. Posted. A copy of the established procedures must be posted in the office of the Racing Secretary. ()

551. NON-STEROIDAL ANTI-INFLAMMATORY DRUG REQUEST FORM.
The Non-Steroidal Anti-Inflammatory Drug Request Form submitted to the Commission Veterinarian must include and be processed as follows: ()

- 01. Name of Horse.** The name, age, sex and breed of the horse; ()
- 02. Name of Trainer and Veterinarian.** The name of the licensed Trainer and veterinarian; ()
- 03. Nature of Injury.** The nature of the horse's injury or disease as determined by an examination by a qualified and duly licensed veterinarian; ()
- 04. Name of Drug Requested.** The name of the Non-Steroidal Anti-Inflammatory drug requested and the proposed time and method of administration; ()
- 05. Signature.** Signature of Trainer and veterinarian attending the horse and the Commission Veterinarian. ()
- 06. Filing.** The trainer or veterinarian attending the horse must file the completed request form with the racing secretary. ()

552. APPROVAL OF NON-STEROIDAL ANTI-INFLAMMATORY DRUG REQUEST.
The Commission Veterinarian will approve the Non-Steroidal Anti-Inflammatory Drug request only if: ()

- 01. Professional Judgment.** In the exercise of his professional judgment, a need for the use of the Non-Steroidal Anti-Inflammatory Drug for the particular horse's injury or disease has been satisfactorily demonstrated. ()
- 02. Professional Diagnosis.** In arriving at the decision, the Commission Veterinarian may take into account or rely upon the written professional diagnosis made by a qualified and duly licensed veterinarian. ()

553. EXPIRATION OF APPROVAL.
Approved medication may be discontinued with permission of the Commission Veterinarian. ()

554. PERMITTED NON-STEROIDAL ANTI-INFLAMMATORY DRUGS.
The only Non-Steroidal Anti-Inflammatory Drugs permitted by these rules are: ()

- 01. Phenylbutazone** (Butazoladin); ()
- 02. Mechlofenamic Acid** (Arquel); ()
- 03. Flunixin** (Banamine); and ()
- 04. Ketoprofen** (Ketofen). ()

555. DAILY RACING PROGRAM.
Horses that are on a Non-Steroidal Anti-Inflammatory Drug must be indicated on the daily racing programs or any other publications and a list of horses on a Non-Steroidal Anti-Inflammatory Drug will be posted at a location designated by the Racing Commission. ()

556. NON-STEROIDAL ANTI-INFLAMMATORY DRUG ADMINISTRATION.
No Non-Steroidal Anti-Inflammatory Drug may be administered to the horse later than twenty-four (24) hours prior to the time the horse is scheduled to race. Only one (1) Non-Steroidal Anti-Inflammatory Drug may be in a horse's system on race day. ()

557. -- 559. (RESERVED)

560. BLEEDER TREATMENT.

- 01. Written Approval Needed.** Epistaxis treatment for bleeders is permitted as a race day medication provided that written approval of the Commission Veterinarian is obtained prior to race day treatment on the

Medication Request Form. ()

02. Bleeders. Bleeders that have been running under Epistaxis treatment must obtain written approval of the Commission Veterinarian prior to entry in any race before running without similar treatment. ()

03. Premarin. Premarin is a permissible Epistaxis treatment and may be used up to two (2) hours before post time. ()

04. Lasix. Lasix is a permissible Epistaxis treatment. ()

561. IDAHO BLEEDER LIST.

Any horse which exhibits symptoms of Epistaxis or respiratory tract hemorrhage is eligible for placement on the Idaho Bleeder List and for treatment on race days with approved medication to prevent or limit bleeding during racing. ()

01. Placed on Idaho Bleeder List. To be placed on the Idaho Bleeders List a horse must be found to have shed free blood from one (1) or both nostrils or bled internally in the respiratory tract during or immediately following a race or workout. The Commission Veterinarian, following his personal examination of a horse or after consulting with the horses' private veterinarian, may certify a horse as a bleeder. ()

02. Bleeder. ()

a. Any horse that bleeds a second time in Idaho will not be able to race for a period of thirty (30) days from the date of the second bleeding offense. ()

b. Any horse that bleeds a third time in Idaho, and each time thereafter, will be suspended from racing for a period of one (1) year from the date of each bleeding offense. ()

03. Bleeder from Another Jurisdiction. A bleeder horse shipped into Idaho from another racing jurisdiction must comply with Racing Commission rules. Any horse on a bleeder list in another racing jurisdiction may be placed on the Idaho Bleeder List provided a current certificate from the jurisdiction where it was confirmed on the bleeder list, or a letter from the horses private veterinarian, who is currently licensed by the racing jurisdiction, is presented to the Commission Veterinarian for his approval. ()

04. Removal from Bleeder List. The Commission Veterinarian may remove a horse from the Idaho Bleeder List, provided the proper paperwork is complete and it is the recommendation of the licensed veterinarian treating the horse, or after an examination by the Commission Veterinarian, it is determined that the horse is not a bleeder and is no longer eligible for the Bleeder List. ()

562. URINE SAMPLES.

01. Phenylbutazone. No urine sample taken from a horse authorized to use phenylbutazone may exceed one hundred sixty-five (165) micrograms total of phenylbutazone or its metabolites per milliliter of urine. ()

02. Lasix. Any horse whose post-race urine creatinine is less than forty (40) milligrams creatinine per one hundred (100) milliliters urine, and the ratio of urine furosemide to urine creatinine does not exceed fifteen hundredths (.15), with urine furosemide being measured in micrograms per milliliter of urine will be said to be positive for Lasix overage. ()

563. BLOOD SAMPLES.

No blood sample taken from a horse authorized to use the following substances may exceed these limits: ()

01. Phenylbutazone. May not exceed five (5) micrograms of phenylbutazone or oxyphenbutazone per milliliter of plasma; ()

02. Flunixin (Banamine). May not exceed twenty (20) nanograms per milliliter of plasma. ()

- 03. Mechlofenamic Acid** (Arquel). May not exceed one (1) microgram per milliliter of plasma. ()
- 04. Ketoprofen** (Ketofen). May not exceed ten (10) nanograms per milliliter of plasma. ()
- 05. Lasix** (Furosemide) May not exceed one hundred (100) nanograms of furosemide per milliliter of plasma. ()

564. HAIR TESTING.

No hair sample taken from a horse may contain any prohibited drug or other non-approved medication. ()

01. Racing Commission Authority. The Racing Commission is authorized to collect and submit hair samples for testing in quarter horses and mixed breed races. Hair samples will be collected consistent with Section 528 of these rules. ()

02. Presence of Prohibited Substances. The presence of any prohibited substances that appears in a pre or post-race sample including, but not limited to, Clenbuterol, Zilpaterol, and Ractopamine in Quarter Horse and mixed breed races will constitute a violation. Any report of prohibited or non-permitted medication in a hair sample will result in the horse being placed on a stewards list for sixty (60) days. A horse must provide a negative hair test prior to removal from any applicable list. ()

03. Positive Finding for Prohibited Substance. Samples collected for out-of-competition testing in Quarter Horses and mixed breed horses that result in a positive finding for a prohibited substance as listed in Section 575 of these rules will be reported to the Board of Stewards and considered a violation. The presence of Clenbuterol in an out-of-competition test in a Quarter Horse will result in the horse being placed on the official veterinarians list for a minimum of sixty (60) days or until a sample is submitted and is reported as negative for the presence of Clenbuterol. If, at the owner's request, a sample is submitted for screening for removal from the official veterinarians list, the owner is responsible for the cost of the testing. ()

04. Hair Sample. If a horse is selected for hair testing and the mane is less than four and one-half inches (4 1/2") in length, the Racing Commission may elect to collect a hair sample using the tail. ()

565. -- 569. (RESERVED)

570. LASIX ADMINISTRATION.

01. Time of Treatment. Horses on the Bleeder List must be treated at least four (4) hours prior to post time with the bleeder medication furosemide (ie. Lasix). ()

02. Dosage. Bleeder medication must be administered in the manner and at a dose level approved by the Commission Veterinarian, such dosage not to exceed two hundred fifty (250) mg. ()

03. Witness. At his request, the Commission Veterinarian or his designee may witness the administration of Lasix by the trainer's private licensed veterinarian. ()

04. Reporting. Administration of Lasix must be reported in writing, on the form designated by the Racing Commission, to the Commission Veterinarian no later than three (3) hours prior to the scheduled post time of the last live race of the program. ()

571. HORSES NOT STABLED ON GROUNDS.

Any horse on the Idaho Bleeder List that is not stabled on the actual grounds of the Racing Association where it is to race must be brought on to the grounds of the Racing Association where it is scheduled to race at least five (5) hours prior to the post time for the race for which it is entered. ()

572. BICARBONATE TESTING.

01. Administration Prohibited. No bicarbonate-containing substance or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or carbon dioxide in a horse may be administered to a horse on race day. ()

02. Positive Test Level. Test samples collected from a horse either before or within one (1) hour following a race may not exceed thirty-seven point zero (37.0) millimoles of total carbon dioxide concentration per liter of serum or plasma. A serum total carbon dioxide level exceeding this value constitutes a positive test. ()

03. Collection of Test Samples. The Commission Veterinarian, the Board of Stewards, or the Business Operations Manager, or ISP designee acting on behalf of the Racing Commission may at their discretion and at any time order the collection of test samples from any horses ordered to the test area to determine the serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes. A sample consisting of at least thirteen (13) ml in a SST tube must be taken from any horse either just prior to a race or up to one (1) hour after a race to determine the serum total carbon dioxide concentration. If the primary testing laboratory finds that the total carbon dioxide levels in the tubes exceed the standard test values of thirty-seven point zero (37.0) millimoles per liter, this may be grounds for disciplinary action. ()

04. Split Sample Testing Prohibited. When taking samples for total carbon dioxide levels, split samples are prohibited. The procedures for split sample testing does not apply to bicarbonate testing procedures. ()

573. PROTECTION OF HORSES.

The Trainer, groom and any other person having charge, custody or care of a horse is obligated to properly protect the horse and guard it against actual or attempted administration of drugs. If the Board of Stewards find that any person has failed to properly protect and guard a horse, they may impose such penalty and take such other action as they deem proper. ()

574. ILLEGAL PRACTICES BY TRAINER.

01. Disciplinary Sanctions. A trainer who is found to have committed illegal practices under the statutes or rules, or both, that govern live horse racing in Idaho is subject to disciplinary sanctions, which may be levied by a fine up to two thousand five hundred dollars (\$2,500), license suspension or license revocation. ()

02. Disqualification for Non-Permitted Substance. If a horse tests positive for any substance (medication, drug, chemical, narcotic, anesthetic, or analgesic) not specifically permitted by these rules by either a pre- or post-race laboratory test, that horse is deemed ineligible to have raced in the race and will be disqualified retroactively to the start of the affected race. If such disqualification occurs, the horse's owner(s) shall, within five (5) calendar days, return the entire amount of the purse or sweepstakes or trophy that was awarded in the affected race and the same will be redistributed. If the affected race is a qualifying race for a subsequent race and if a horse is disqualified, the eligibility of other horses that ran in the affected race and that have started in the subsequent race before announcement of such disqualification will not in any way be affected. ()

575. NON-APPROVED MEDICATION.

01. Administration by Owner or Trainer. A horse owner or trainer found to have administered any non-approved medication substances is in violation of these rules. ()

02. Clenbuterol. A finding of Clenbuterol is prohibited in blood, urine, saliva, hair, or any other acceptable specimen. ()

576. MEDICATION REPORT FORM.

01. Submission of Medication Report Form. All practicing licensed Veterinarians must submit daily to the Commission Veterinarian a Medication Report Form furnished by the Racing Commission. ()

02. Content of Medication Report Form. The form must contain the following information: ()

- a. The name, age, sex and breed of the horse; ()
- b. The permitted drug used; ()
- c. The time the permitted drug was administered; and ()
- d. The route and dosage of the administration. ()

03. Signed and Dated. The report must be dated and signed by the licensed Veterinarian so administering the medication. ()

04. Confidential. Any such report is confidential and its content may not be disclosed except in a proceeding before the Board of Stewards or the Racing Commission or in the exercise of the Racing Commission's jurisdiction. ()

577. PENALTIES.

Any person violating any of the provision of these rules is subject to the penalties provided for in Title 54, Chapter 25 Idaho Code and any of the Racing Commission rules. ()

578. VIOLATIONS.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. ()

01. First Violation. The first violation of these rules will result in the issuance of a fine to the horse's Trainer and such other penalty deemed appropriate. ()

02. Second Violation. The second violation of this chapter by the same Trainer during the same calendar year will result in a suspension, a fine and such other penalty deemed appropriate. ()

03. Third Violation. A third violation of this chapter will be referred to the Racing Commission for appropriate action up to and including revocation of license. ()

04. Not Detected. If a Non-Steroidal Anti-inflammatory Drug other than DMSO is not detected in the urine or in any other specimen taken from a horse authorized to use the Non-Steroidal Anti-Inflammatory Drug, a fine up to five hundred dollars (\$500) may be imposed upon the horse's Trainer without loss of purse. ()

05. Detected. If a Non-Steroidal Anti-Inflammatory Drug is detected in the urine or in any other specimen taken from a horse not authorized to use the Non-Steroidal Anti-Inflammatory Drug, the violation will result in loss of purse and the horse's Trainer is subject to such penalties deemed appropriate. ()

579. -- 599. (RESERVED)

SUB AREA B5: LIVE HORSE RACES
(Sections 600-699)

600. ENTER, SEARCH, AND INSPECT.

Every Racing Association, the Racing Commission, the Stewards, or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses that are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. ()

601. ILLEGAL PRACTICES.

01. Offer of Bribes. No person may give, offer or promise, directly or indirectly, to anyone any bribe, gift or gratuity in any form for the purpose of improperly influencing the result of a race. ()

02. Acceptance of Bribes. No person licensed by the Racing Commission, nor any other person, may accept or offer to accept, on his own behalf or on behalf of another, any bribe, gift or gratuity in any form to influence the result of a race. ()

03. Conspire. No person may conspire with any other person for the commission of any corrupt or fraudulent practice in relation to racing, nor may he commit such an act on his own account. ()

04. Bets. No person except the Owner or Trainer of the horse the Jockey is riding may make a bet for the account of any Jockey and then only on the horse being ridden by said Jockey. ()

05. Shodding. A horse starting in a race must not be shod with ordinary shoes, training shoes or bar plates except by permission of the Board of Stewards. ()

06. Devices. No electrical or mechanical device or other appliance designed to increase or decrease the speed of a horse, other than ordinary whip, may be possessed by anyone or applied by anyone to a horse at any time on the grounds of a Racing Association during a meeting whether in a race or otherwise. ()

07. Tampering. No person may improperly tamper or attempt to tamper with any horse in such a way as to affect his speed in a race, nor may he counsel or in any way aid or abet any such tampering. ()

08. Jockey's Spouse. A jockey may not compete in any race against a horse which is trained by the jockey's spouse. ()

602. CONSUMPTION OF ALCOHOL.

No jockey, starter, assistant starter, pony person, outrider, or racing official may have present within his body any amount of alcohol while participating in any horse race held that day. ()

603. HORSE RACES -- GENERAL RULES.

01. Post Time. Post time must be shown a reasonable time prior to the race on a clock device, provided for that purpose, prominently displayed and clearly readable from the grandstand. ()

02. Paddocks. Horses must be in the paddock at least twenty (20) minutes before post time and be saddled in the paddock. ()

03. Number. In a race, each horse must carry a conspicuous saddlecloth number and a head number, corresponding to the assigned number on the official program. In the case of an Entry, each horse making up the Entry must carry the same number (head and saddlecloth) with a distinguishing letter. In the case of a Field, the horses comprising the Field must carry an individual number. ()

04. Jockey. After the horses enter the track, no Jockey may dismount and no horse is entitled to the care of an attendant without consent of the Board of Stewards or the Starter, and the horse must be free of all hands other than those of the Jockey or assistant starter before the starter dispatches the Field. ()

05. Accidents. In case of accident to a Jockey, his mount, or equipment, one of the Stewards or the starter may permit the Jockey to dismount and the horse to be cared for during the delay, and may permit all Jockeys to dismount and all horses to be attended during the delay. ()

06. Injured Jockey. If a Jockey is injured on the way to the post so as to require replacement, the horse must be taken to the paddock and another Jockey and equipment obtained. ()

07. Parade. All horses must parade and, under penalty of disqualification, carry their weight from the paddock to the starting post, such parade to pass the Stewards' stand. ()

08. Delays. After entering the track, no more than twelve (12) minutes may be consumed in the parade of the horses to the post except in cases of unavoidable delay. After passing the stand once, horses will be allowed to

break formation and canter, warm up or go as they please to the post. When horses have reached the post, they must be started without unnecessary delay. ()

09. Willful Delay. No person may willfully delay the arrival of a horse at the post. ()

10. Selection of Horses. When the number of horses competing in a race exceeds the numbered capacity of the tote, the Field horses are to be selected by the handicapper or the Racing Secretary. ()

11. Limit on Number of Horses. No more than eight (8) horses may start in any race on a one-half (1/2) mile track. ()

12. Start. A horse may not be qualified to start in any race unless the horse has been and continues to be properly entered therein. ()

604. STRAIGHTAWAY RACES.

01. Maintain Position. In a Straightaway Race every horse must maintain position as nearly as possible in the lane in which it starts. ()

02. Entitled to Room. Every horse in the race is entitled to racing room and may not be deliberately impeded. If a horse is ridden or drifts out of its lane in such a manner that it interferes with or impedes another horse in any way, it is a foul. ()

03. Offending Horse. The offending horse may be disqualified when, in the opinion of the Stewards, the outcome of the race was affected by the foul. This applies whether the foul was caused by the horse or by the rider, irrespective of cause. ()

04. Caused by Horse. When the Board of Stewards rule that the foul was caused by the horse, in spite of obvious efforts of the Jockey to maintain position in its lane, no blame will be attached to the Jockey. ()

05. Effort of Jockey. When the Board of Stewards rule that the Jockey did not make an effort to prevent the foul, then the Jockey may be fined or suspended, or both. ()

06. Fined or Suspended. A Jockey who rides the horse out of its lane or fails to make an effort to hold the horse in its lane when the horse is lugging either in or out may be fined or suspended even though no actual foul occurs. ()

605. RACES AROUND A TURN.

01. Race Around a Turn. In a race run around a turn, a horse that is in the clear may be taken to any part of the track, except that weaving back and forth in front of another horse may be considered interference or intimidation and may be penalized. ()

02. Jostles. If a horse or Jockey jostles another horse, the aggressor may be disqualified unless the jostled horse or Jockey was at fault or the jostle was wholly caused by the fault of some other horse or Jockey. ()

03. Crossing Another Horse. A horse crossing another so as to actually impede it is disqualified, unless the impeded horse was partly in fault or the crossing was wholly caused by the fault of some other horse or Jockey. ()

04. Strikes. If a Jockey willfully strikes another horse or Jockey or rides willfully or carelessly so as to injure another horse, which is in no way at fault, or so as to cause other horses to do so, the Jockey's horse is disqualified. ()

05. Shorten Strides. No Jockey may unnecessarily shorten his horses stride so as to give the appearance of having suffered a foul. ()

606. DISQUALIFICATION.

The Board of Stewards are vested with the power to determine the extent of disqualification in case of fouls. ()

01. Placing. They may place the offending horse behind such horses as in their judgment it interfered with or they may place it last. ()

02. Entries. When a horse is disqualified under these rules, the other horse or horses in the same race coupled as an Entry may be disqualified. ()

607. -- 609. (RESERVED)

610. CLAIMS OF FOUL.

Claims of foul under these rules can only be received from the owner, trainer or jockey of the horse alleged to be aggrieved and must be made to the Clerk of the Scales or to the Board of Stewards before the jockey has passed the scales. But nothing in these rules prevents the Board of Stewards taking cognizance of foul riding. ()

01. Fouls. Any Jockey against whom a foul is claimed will be given the opportunity to appear or communicate with the Board of Stewards before any decision is made. ()

02. Frivolous Complaints. An owner, trainer, or jockey who frivolously complains his horse was crossed or jostled may be subject to disciplinary action by the Board of Stewards. ()

611. BEST EFFORT.

All participants are expected to give their best efforts in races and any instructions or advice to Jockeys to ride or handle their mounts otherwise than for the purpose of winning are forbidden and such instructions must be reported immediately to the Board of Stewards by the Jockey. All persons giving or following such instructions or advice are subject to disciplinary action by the Board of Stewards. ()

612. ENTRIES AND DECLARATIONS.

The Racing Secretary is authorized to receive entries and declarations for all races. ()

01. Overnight Race. Overnight Race Entries closes at a time designated and published by the Racing Secretary. ()

02. Ineligible. No person may enter or start a horse which is known or believed to be ineligible or disqualified. ()

03. Ringer. No person may enter or start a horse which is a ringer. ()

04. Declaring an Entry. No person may offer or receive money or any other benefit for declaring an Entry from a race. ()

05. Entry Refused. The entries of any person, or the transfer of any Entry, may be refused without notice for reasons deemed to be in the best interest of racing as determined by the Board of stewards. ()

06. Eligible. All horses must be eligible to start at time of Entry, and to compete in a race, a horse needs to be eligible at the time of starting that race. ()

07. Responsibility. Any person participating in the entry will be jointly and severally responsible and liable with the Trainer for the accuracy and authority of the entry. ()

08. Trainer. No horse is permitted to enter or to start unless in the care and attendance of a licensed Trainer. ()

09. Name of Jockey. Upon making an entry, every Trainer needs to furnish the name of the Jockey

who will ride the entry or, if this is not possible, in any event to furnish the information not later than scratch time. If no Jockey has been named by that hour, the Board of Stewards will name the best available rider for the horse. ()

10. Entry Void. If any entry from any disqualified person or a disqualified horse is received, such entry is void and any money paid for such entry may be forfeited to the purse of the race. ()

11. Entries. All entries are under the supervision of the Stewards. ()

613. COUPLED ENTRIES.

01. Coupled Entries. Two (2) or more horses that are entered in a race will be joined as a mutuel entry and single betting interest if they are owned or leased in whole or in part by the same racing interest or are trained by a trainer who owns or leases any interest in any of the other horses in the race, except: ()

a. Multiple horses owned by the same racing interest may be uncoupled in stake races for the purpose of pari-mutuel wagering; or ()

b. Multiple horses owned by the same racing interest may be uncoupled for the purpose of pari-mutuel wagering. ()

02. Overnight Race. No more than two (2) horses owned by the same racing interest may be entered in an overnight race. Under no circumstances may both horses of such an entry start to the exclusion of a single entry. When making an entry, a preference for one (1) of the horses must be made. ()

614. WRITTEN ENTRIES.

Entries and declarations must be made in writing and signed by the Trainer of the horse, or his delegate or some person deputized by him, except: ()

01. Telephone. Entries may be made by telephone, facsimile or electronic submission, if approved by the State Steward. All telephone, facsimile or electronic submission, entries must be signed by the Trainer of the horse, or his delegate or some person authorized by him, before the horse will be allowed to start in any race. ()

02. Entry Blanks. Each Racing Association must provide blank forms on which entries and declarations are to be made as approved by the Racing Commission. ()

615. REGISTRATION.

01. Duly Registered. No thoroughbred horse will be allowed to enter or start in any race unless duly registered and named at the registry office of the Jockey Club (New York), nor will a Quarter Horse be allowed to enter or start in any race unless duly registered with the American Quarter Horse Association (Amarillo, Texas), nor any Appaloosa horse will be allowed to enter or start unless duly registered with the Appaloosa Horse Club, Inc., (Moscow, Idaho), with the exception that the Board of Stewards may at their discretion, for good cause, waive this requirement if the horse is otherwise properly identified. ()

02. Certificate or Facsimile. At the time of entry, certificate or facsimile of registration from the Jockey Club (New York) or the American Quarter Horse Association (Amarillo, Texas) or the Appaloosa Horse Club, Inc., (Moscow, Idaho) of every horse starting must be filed in the office of the Racing Secretary. The Board of Stewards may at their discretion waive this rule in the case of haul in horses. ()

03. New Name. If the name of a horse is changed, the new name together with the former name will be published in the official program for the first three (3) starts after the change has been made. No change of names will be acceptable unless first granted by the Jockey Club, the American Quarter Horse Association, the Appaloosa Horse Club or other registry under which the horse is registered. Violation of any part of this rule will cause the horse to be named a “RINGER” and the horse and all persons connected with the violation will be ruled off and referred to the Racing Commission. ()

04. Sex Altered. All geldings and all fillies and mares which have been “spayed” (i.e., rendered incapable of conception by whatever procedure, including removal of the ovaries) must be reported promptly by the owner or person in charge of the animal to the registry office, giving, in the case of geldings, the date of castration (or any other procedures having the effect of castration) and, in the case of fillies and mares, the date and nature of the procedure employed. ()

616. IDENTIFICATION.

01. Identification. If entered for the first time, a horse will be identified by stating his name, color, sex and age and the name of his sire and dam as registered. This description must be repeated in every entry until a description of the horse with its name has been published in the official program or the list of entries of the Association or in such other publication as the Racing Commission may designate. In every entry after such publication, its name and age will be sufficient. ()

02. Permitted to Start. No horse is permitted to start that has not been fully identified. ()

03. Responsibility. Responsibility in the matter of establishing either the identity of a horse or its complete and actual ownership is as binding on the persons so identifying or undertaking to establish as it is on the person having the horse requiring identification and the same penalty applies to them in case of fraud or attempt at fraud. ()

04. Method of Identification. All horses must have either a lip tattooed or be identified by a National Animal Identification System compliant device. ()

617. OWNERSHIP.

01. Disclosure of Ownership. All ownerships in a horse must be filed with the Racing Secretary before the horse may start, and update every change in ownership thereafter during the race meeting. Failure to disclose all ownerships may result in a fine or suspension, or both. ()

02. Registration of Partnerships. No horse involved in a partnership will be permitted to enter or to start until the rules for the registration of partnerships have been complied with. ()

03. Disqualified. No horse will be qualified to be entered or to start in any race if owned in whole or in part by or if under the direct or indirect management of a person disqualified under Idaho Law or Racing Commission rules. ()

618. WORKOUTS.

01. Minimum Number of Workouts. A horse that has never run at a recognized race meet must have a minimum of two (2) official workouts and be approved by the Starter before being eligible to start in an official race. ()

02. Recognized Meet. Any horse that has not run at a recognized race meet in the forty-five (45) days prior to the race in which it is sought to be entered must have at least one (1) official workout before being eligible to start in an official race. ()

03. Workout Around the Turn. Any horse that has not raced around one (1) turn must have one (1) official workout around the turn before being able to enter or start any race around the turn. ()

619. ENTRIES CLOSED.

01. Entries Closed at Advertised Time. Entries must be closed at an advertised time and no entry accepted thereafter. The Racing Secretary, however, with the consent of the Stewards, may postpone closing of overnight races. ()

02. Absence of Notice. In the absence of notice to the contrary, entrance and declarations for a stakes race must be at the office of the Racing Secretary who will make provisions therefore. ()

03. Hour of Closing. When the hour for closing is designated, entries and declaration for stake races cannot be received afterwards. If an hour is not designated, then the close of entries and declarations will be at the close of the day's draw. ()

04. Entries Compiled. Entries that have closed must be compiled without delay by the Racing Secretary and conspicuously posted. ()

05. Changes. No changes may be made in any entry after closing of entries except the Racing Secretary may correct an error with the approval of the Stewards. ()

06. Unclosed Race. The Racing Association has the right to withdraw or change any unclosed race. ()

620. NOT QUALIFIED TO START.

01. Listed. No horse on the Stewards, Veterinarians, Starters, or Paddock list is qualified to start. ()

02. Money Paid. No horse is allowed to start in a race unless any stake or entrance money payable in respect to that race has been duly paid. ()

03. Nominator. The nominator is liable for the entrance money or stake and the death of a horse or mistake in its entry does not release the subscriber or transferee from liability for stake. The entrance money to the purse that is run off will not be returned on the death of a horse or its failure to start for any cause whatever. ()

04. Registration Papers. No horse is allowed to start unless the horses registration papers are on file, or digitally in the Racing Secretary's office. ()

05. Unlicensed Owner. No horse is allowed to start unless the horses owner has been licensed by the Racing Commission. ()

621. -- 629. (RESERVED)

630. PREFERENCE SYSTEM.

01. Preferred List. A copy of the preferred list will be made available to the Racing Commission and horsemen before taking entries for the following race day. ()

02. Excluded Twice. If a horse has been excluded twice consecutively, it has preference over a horse excluded only once and so on. ()

03. Opportunity. No horse will be placed on the preferred list if the Owner or Trainer thereof did not accept the opportunity of starting when it was presented. ()

04. No Consideration. Horses whose names appear in the entries and have an opportunity to start will be given no consideration whatsoever should they be entered for the following race day and the race overfills, except stakes races. ()

05. Claim. In entering horses on the preferred list, a claim of preference must be made at time of entry and noted on the entry or the preference will be lost and no claim of error will be considered by the Board of Stewards if the person making the claim has signed an entry not marked in keeping with these rules. ()

631. NOMINATIONS AND ENGAGEMENTS.

01. Nominations and Engagements. Nominations and all entries or rights of entry are valid when a horse is sold with its engagements duly transferred in duly registered partnerships when subscriptions, entries and rights of entry survive in the remaining partners and when entries under the decedent's subscriptions have been made previous to the decedent's death by the transfer of the rights of entry. ()

02. When Nominations Void. Nominations and all entries or rights of entry become void on the death of a nominator except in the case of duly registered partnerships or except, subject to the sanction of the Stewards, when the personal representative of an estate of the decedent nominator for the privilege of transfer agrees to assume any and all obligations incident to the original entries. ()

03. Transfer. In case of any transfer of a horse with its engagements, such horse will not be eligible to start in any stake unless at the usual time of the running of the stake, or prior thereto, the transfer of the horse and its engagements are exhibited to the Racing Secretary when demanded. ()

04. Sold. Should a horse be sold with its engagements, or any part of them, the seller cannot strike the horse out of any such engagements. ()

05. Claimed Out. When a horse is claimed out of a claiming race, its engagements are included. ()

06. Engagements Voided. If a horse is sold to a disqualified person, said horse's racing engagements is void as of the date of sale. ()

632. POST POSITIONS.

01. Post Positions Determined by Lot. Post positions are determined publicly by lot in the presence of the Racing Secretary and Steward. Thereafter if a regular carded horse is excused from a race, all horses will move up in post position order. ()

02. Applicability. This rule applies unless the Association specifically provides otherwise in writing in its stake or condition book. ()

03. Position. Horses must take their position at the post in the post position order in which their names have been drawn, beginning from the inside rail. ()

04. Starter. The starter is the final authority as to the horses' numerical loading order into the starting gate and the order may be changed by the starter with the approval of the Board of Stewards. ()

633. NUMBER OF STARTERS.

01. Limit. The race is limited to the number of starters as specified in the conditions. ()

02. More Than the Specified Number. If more than the specified number of entries is received in an overnight race, then: ()

a. Winners of a stakes race have first preference; ()

b. Winners have second preference; ()

c. Stake placed maidens have third preference; ()

d. Other maidens have fourth preference; and ()

e. Non-starters have fifth preference. ()

634. DEAD HEAT.

01. Dead Heat. When two (2) or more horses run a dead heat, the dead heat will not be run off. ()

02. Purse Divided Equally. The owners of the horses in a dead heat must equally divide the purse money and other prizes. If no agreement can be reached as to which receives the cup, plate or other indivisible prize, they must draw lots for it in the presence of one (1) or more of the Stewards. ()

03. First Place. If a dead heat is for first place, each horse is considered a winner of the amount received in accordance with Subsection 634.02 of these rules. ()

635. DECLARATIONS.

01. Scratched or Declared. No horse is considered scratched or declared until the Trainer or an authorized agent, or some person authorized by the Trainer, has given due and timely notice in writing to the Racing Secretary. ()

02. Stake Races. For stake races, if a horse is not named through the entry box at the specified time of closing, the horse is automatically out. ()

03. Irrevocable. The declaration or scratch of a horse is irrevocable. ()

04. Miscarriage. If the miscarriage of any declaration by mail or otherwise is alleged, satisfactory proof of such miscarriage is required; otherwise, the declaration is accepted as of the time alleged. ()

05. Stewards. All declarations are under the supervision of the Stewards. ()

636. SCRATCHES.

01. Scratches. A horse may be scratched from a race if eight (8) betting interests remain in the race. ()

02. Request to Withdraw. If there are more requests to withdraw than are available, permission to withdraw will be decided by lot. However, in all races involving the Daily Double or Trifecta, no entry may be withdrawn that would reduce the starting field to less than the number designated by the Racing Secretary except with the permission of the Stewards. ()

03. Other Causes. No other entries will be excused except upon receipt of a Veterinarian's Certificate of unfitness, a change of track conditions since the time of entry, or other causes acceptable to the Stewards. ()

637. COLORS.

01. Racing Colors. Owners may obtain suitable racing colors that must be registered annually, together with the owners' license application. ()

02. Fine. Anyone using colors other than their own are subject to a fine. However, in case of emergency, the Board of Stewards may allow the use of substitute colors which must be of standard track colors furnished by the Racing Association. ()

03. Standard Colors. Racing Associations may use standard colors if approved by the Racing Commission. If standard colors are used, such colors must be furnished by the Racing Association and in these instances the owner will not need to provide colors. ()

638. WEIGHTS.

The following weights are carried when they are not stated in the condition of the race: ()

01. Intermediate Length. In races of intermediate lengths, the weights for the shorter distance are carried. ()

02. Allowances. In all races, except handicaps and races where the conditions expressly state to the contrary, two-year old fillies are allowed three (3) pounds, three-year old and older fillies and mares are allowed five (5) pounds before the first of September and three (3) pounds thereafter. ()

03. Overnight Races. In all overnight races, except handicaps, not more than six (6) pounds may be deducted from the scale of weight for age, except allowances; but in no case may the total of allowance of any type reduce the lowest weight below one hundred three (103) pounds, except that this minimum weight need not apply to two-year olds or three-year olds when racing older horses. ()

04. Penalties. Penalties and allowances of weight are not cumulative unless so declared by the conditions of the race. Horses not entitled to the first weight allowance in a race are not entitled to the second and so on. ()

639. APPRENTICE JOCKEY WEIGHT ALLOWANCE.

01. Weight Allowance. An Apprentice Jockey must ride with a five (5) pound weight allowance beginning with the first mount for one (1) full year from the date of the fifth winning mount. ()

02. After One Year. If after riding one (1) full year from the date of the fifth winning mount the Apprentice Jockey has failed to ride a total of forty (40) winners from the date of the first winning mount, the apprentice must continue to ride with a five (5) pound weight allowance for one (1) more year from the date of the fifth winning mount or until the apprentice has ridden a total of forty (40) winners, whichever comes first. ()

03. If Unable to Ride. If an Apprentice Jockey is unable to ride for a period of fourteen (14) consecutive days or more from the date of the apprentice's fifth winning mount because of service in the Armed Forces of the United States or because of physical disablement, the Racing Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such Apprentice Jockey was unable to ride. ()

640. WEIGHTS IN HANDICAP RACES.

01. Weight Assignment. The Handicapper or Board of Handicappers assigns all weight to be carried in a handicap race. ()

02. No Alterations. No alteration may be made after publication except in the case of omission through error of the name or weight of a horse duly entered; in which case, by permission of the Stewards, the omission may be rectified by the Handicapper. ()

641. WEIGHT FOR AGE.

01. Limit. Exclusively for three-year olds or four-year-olds the weight is one hundred twenty-six (126) pounds and in races exclusively for two-year olds it is one hundred twenty-two (122) pounds. ()

642. -- 649. (RESERVED)

650. CLERK OF THE SCALES.

01. In Charge of the Scales. The Clerk of the Scales is in charge of the scales furnished by the Racing Association. ()

02. Check the Weight. The Clerk of the Scales must check the weight of all Jockeys out and perform such other duties as are customary. ()

03. Record. At the time of weighing out, the Clerk of the Scales must record all overweights and announce them publicly prior to the first race of the day and before the running of each race. ()

04. Weigh In. After each race the Clerk of the Scales must weigh in all Jockeys running fourth or better. ()

651. PRE-RACE WEIGH OUT.

01. Specific Horse. Every Jockey must be weighed for a specified horse no more than thirty (30) minutes before the time fixed for the race. ()

02. Jockey Equipment. A Jockey’s weight includes riding clothes, saddle and pad but does not include the safety helmet or whip. ()

652. OVERWEIGHT.

01. Overweight. If a Jockey intends to carry overweight, the amount thereof must be declared at the time of weighing out. If in doubt as to the proper weight, the weight to be carried may be declared. ()

02. More Than Two Pounds. If a Jockey intends to carry overweight exceeding by more than two (2) pounds the weight which the horse is to carry and the Trainer consents, the Jockey must declare the amount of overweight to the Clerk of the Scales at least forty-five (45) minutes before the time appointed for the race and the Clerk must state the overweight on the notice board immediately. Failure on the part of the Jockey to comply with this rule must be reported to the Stewards. ()

03. No More Than Seven Pounds. No horse may carry more than seven (7) pounds overweight, except at fair circuit racetracks with the permission of the stewards. ()

653. POST RACE WEIGH IN.

01. Upon Completion of a Race. After a race has been run and after the Jockey has pulled up the horse ridden, the Jockey must ride promptly to the area designated by the Stewards. After obtaining permission from the Judges, the Jockey must dismount and present himself to the Clerk of the Scales to be weighed in. If a Jockey is prevented from riding a mount to the Judges stand because of an accident or an illness either to the Jockey or the horse, the Jockey may walk or be carried to the scales or may be excused by the Board of Stewards from weighing. ()

02. Preparation for Weigh In. Except by permission of the Board of Stewards upon returning to the Placing Judges stand, every Jockey must unsaddle the horse ridden. No person may touch the Jockey or the horse, except by the bridle, nor cover the horse in any manner until the Jockey has removed the equipment to be weighed. ()

03. Carrying Equipment. Each Jockey must weigh in carrying over the Scales all pieces of equipment with which weighed out. Thereafter, the equipment may be given to the Jockey’s attendant. ()

04. Same Weight. Each Jockey must weigh in at the same weight as that which he weighed out and, if short of it by more than two (2) pounds, the horse will be disqualified. ()

05. More Weight. If any Jockey weighs in at more than two (2) pounds over the proper or declared weight, the Jockey will be fined or suspended or ruled off by the Board of Stewards, having due regard for any excess weight caused by rain or mud. The case must be reported to the Racing Commission for such action as it may deem proper. ()

654. PADDOCK JUDGE.

The Paddock Judge is in charge of the paddock. ()

01. Horses. The Paddock Judge must check all horses for each race. ()

02. Records. The Paddock Judge must keep a record of equipment carried by horses in races under the Paddock Judge’s jurisdiction and he may not permit any change in equipment not authorized by the Stewards.

()

03. Shod. The Paddock Judge must determine that horses in the paddock are properly shod and report any irregularities to the Stewards. ()

04. Bandages. The Paddock Judge and the Commission Veterinarian must inspect bandages on horses prior to the participation in a race. They may order removal and replacement of bandages. They must report any indications of fraud in the type of bandages or other equipment to the Stewards. ()

05. Commands. The Paddock Judge issues the command “RIDERS UP” and the order to proceed to the post parade. ()

06. Conduct. The Paddock Judge is responsible for the conduct of all persons in the paddock and all irregularities in conduct must be reported to the Stewards. ()

07. Paddock Safety. The Paddock Judge is responsible for safety in the paddock and for safety reasons may limit the number of people allowed in the paddock area. ()

655. EQUIPMENT.

01. Permission Needed for Equipment Change. Permission for any change of equipment from that which a horse carried in its last race must be secured from the Paddock Judge before being granted by the Stewards. Such change needs to be announced or posted for public information. ()

02. Blinkers. Permission to use or discontinue the use of blinkers must be secured from the starter before being granted by the Stewards. ()

03. Bridles and Whips. All bridles and whips must be of racing design and in a clean serviceable condition approved by the Stewards. All whips must have a minimum of three (3) rows of feathers. ()

04. Tongue Tie. Permission to use or discontinue the use of a tongue tie must be secured from the Paddock Judge before being granted by the Stewards. ()

05. Change. Any equipment change from the time the horses enter the track until the horses are dispatched at the start of the race must be made by the Starter. If schooled before the Starter and approved by him and the Board of Stewards before time of entry, a whip or blinkers, or both, may be used on two-year-olds and other first time starters. ()

06. Head Number. Every horse in a race must have a head number attached at the junction of the brow band and the head piece of the bridle. This number must correspond to the saddle cloth number of the horse as shown on the program. The Board of Stewards may for good cause excuse this requirement. ()

656. THE STARTER.

01. Starter. The Starter must give orders to secure a fair start. To avoid delay, if after reasonable efforts a horse cannot be led or backed into position, the Starter will request the horse scratched by the Stewards. ()

02. Starting Gate. All races must utilize a starting gate approved by the Racing Commission, except that with permission of the Board of Stewards a race may be started with or without a gate. When the starting gate is used, it must be placed on the track at the direction of the Starter. ()

03. Assistants. The Starter may appoint assistants but neither the Starter nor assistants may strike or use abusive language toward a Jockey. The Starter or assistant will be disciplined by the Board of Stewards for violation of this rule. ()

04. Schooled. Horses must be schooled under the supervision of the Starter or assistants and the Starter must designate the horses to be placed on the starters list, a copy of which is to be posted in the office of the Racing

Secretary. ()

05. Approval. The Starter must approve all entries of two-year-olds and first time starters before they are allowed to start. ()

06. Disciplinary Action. The Starter may recommend to the Board of Stewards disciplinary action against Jockeys or other persons. ()

657. TIMER.

01. Timers. The Timers, the number to be determined by the Stewards, must occupy the Timer's stand or other appropriate place during the running of a race and they will record the time of each race for posting. At the close of each day's racing, they must file a written report of the time, including the fractional time, of each race of the day with the Racing Secretary. ()

02. Recorded Time. The time recorded for the first horse to cross the finish line is the official time of the race. If a horse establishes a track record and it is later determined there is a presence of a drug, such track record is null and void. ()

03. Electronic Timing. Electronic timing devices must be approved by the Racing Commission. ()

658. PATROL JUDGE.

01. Duties. The Racing Association may appoint and assign Patrol Judges, as required by the Stewards, whose duties are to view each race from the vantage point assigned to them by the Stewards. ()

02. Communication. The Racing Association must provide communication devices between the Patrol Judges and the Stewards. ()

03. Report. Prior to 9 a.m. the following work day the Patrol Judge must report in writing the Judge's observation of each race and be provided to the Stewards. ()

659. PLACING JUDGES.

The Placing Judge or Judges may decide which horse wins and assign respective places in the race as is proper, usually the first four (4) finishing positions. When the Judges differ, the majority governs. In determining the places of horses at the finish of a race, the Placing Judges must consider only the respective noses of such horses. ()

660. -- 664. (RESERVED)

665. PHOTO FINISH CAMERA.

01. Approved Camera. A photo finish camera that has been approved by the Racing Commission must be installed as an aid to the Placing Judges at each track. ()

02. Judges Decision. The camera is merely an aid and the decision of the Judges is final. The finish line must appear in the photos. ()

03. Photo Posted. The photograph of each photo finish must be posted in at least one (1) conspicuous place at the track as promptly as possible after each such race. ()

04. Photographic Record. The Racing Association must keep a photographic record of each race on file for the duration of the race meet for reference or reproduction upon request of the Racing Commission. ()

666. PLACING ERRORS.

01. Errors. Nothing in these rules may be construed to prevent the Placing Judges, with the approval

of the Stewards, from correcting an error before the display of the sign “OFFICIAL.” ()

02. Method. If the “OFFICIAL” sign is displayed in error, the pools and purses must be calculated for both error and correction and the Racing Association must make up any losses. ()

667. VIDEO RECORDS.

In instances where there was an inquiry, disqualification or suspension as a result of the running of the race, video camera tapes of races will be kept until released in writing by the Racing Commission. ()

668. CLAIMING RACES.

All claiming races must be run in conformance with these rules and IDAPA 11.04.01.B.B6 “Rules Governing Claiming Races”. ()

669. -- 674. (RESERVED)

675. STAKE RACE APPLICATIONS.

01. Stake Race Nomination Applications. Stake race nomination applications must be submitted to the Racing Commission for approval. Rules adopted by the Racing Commission supersede conditions of the race. ()

02. Weights. Weights, or the method of selection of weights, must be listed on the nomination application. ()

03. Purse. Stake nomination applications must indicate the amount of money to be added to the purse by the Racing Association or sponsor, if any. ()

04. No Deductions. No deductions may be withheld from the purse unless so stated on the nomination application. ()

676. STAKE RACE NOMINATIONS.

If a nominee is sold, the entry goes with the foal and fees may be kept up by the buyer. There will be no refunds. If a nominee dies, the entry fees remain in the race. ()

677. NOMINATION AND ENTRY FEES.

01. Fees Deposited. Nomination and entry fees must be deposited in an account approved by the Racing Commission. ()

02. Interest. Accrued interest must be added to the purse of the stakes race. ()

03. List. A list of all horses remaining eligible must be sent to the Racing Commission and each nominator or made available on a website listed on the nomination application to the stake no later than fourteen (14) days after the closing of each payment. ()

04. Deposits. All monies and accrued interest must be deposited with the Horsemen’s Bookkeeper prior to the day of entry. ()

05. Refund. Any horses drawing outside the gate will have the entry fee refunded. ()

678. CANCELLATION OF A STAKES RACE.

A Racing Association reserves the right, with the consent of the Racing Commission, to cancel or postpone a stakes race. ()

679. FAILURE OF STALL GATE.

No liability will be incurred beyond the refund of starting and entry fees if a stall gate fails to open and such horse is declared a nonstarter. ()

680. RACE OFF.

If a stake race is declared off, all nominations and fees and accrued interest paid in connection with that race must be refunded. Incurred administration expense may be deducted, subject to review by the Racing Commission. ()

681. STAKE TRIALS.

01. Trial. Except in cases where the starting gate physically restricts the number of horses starting, each trial must consist of no more than ten (10) horses. ()

02. Less Than Ten Stalls. If the Racing Association's starting gate has less than ten (10) stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate positions. ()

03. Finals Only. The Racing Association may choose to run a finals only if the number of horses eligible is less than the available stalls in the starting gate. ()

682. TRIALS RACED UNDER SAME CONDITIONS.

01. Same Conditions. The trials must be raced under the same conditions as the finals and the number of qualifiers for the finals must correspond to the number of stalls in the starting gate for the finals. ()

02. Conducted On Same Day. If the trials are conducted on the same day, the number of horses corresponding to the stalls available in the starting gate per the conditions of the race will qualify to participate in the finals. ()

03. Conducted On Two Days. If the trials are conducted on two (2) days, one-half (1/2) of the horses that qualify for the finals must come from the first day of trials and one-half (1/2) of the horses that qualify for the finals must come from the second day of trials. ()

04. More Than One Entry. When trials are conducted on two (2) days, the Racing Secretary must split owners with more than one (1) entry into separate days. ()

683. QUALIFICATION BASED ON TIME.

01. Qualifying. In the time trials, horses qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. ()

02. Same Trial Heat. The only exception is when two (2) or more horses have the same time in the same trial heat. Then the order of finish also determines the preference in qualifying for the finals. ()

03. Different Trial Heats. Should two (2) or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot will be conducted as directed by the Stewards. ()

04. Not Determined Beyond the Limit of the Timer. Qualifying times in separate trials will not be determined beyond the limit of the timer by comparing or enlarging photo-finish images, or both. ()

05. Adjustments. No adjustments will be made in the times recorded in the time trials to account for head-wind, tail-wind, off-track, etc. ()

684. DISQUALIFICATION.

01. Disqualification. Except in the case of disqualification, under no circumstances will a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial. ()

02. Interference. Should a horse be disqualified for interference during the running of a time trial, it will receive the time of the horse it is immediately placed behind plus one hundredth (.01) of a second, or the

maximum accuracy of the electronic timing device. ()

03. No Time. If a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse will be given no time plus one hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. ()

685. TIMER MALFUNCTION IN A TIME TRIAL.

01. Electronic Time Malfunction. Should a malfunction occur with electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three (3) official and disinterested persons. ()

02. Average of Times. The average of the three (3) hand times will be utilized for the winning time, unless one (1) of the hand times is clearly incorrect. In such cases, the average of the two (2) accurate hand times will be utilized for the winning time. Other horses will be given times according to the order and margins of finish with the aid of the photo-finish, if available. ()

03. Malfunction in Some Trials Only. When there is a malfunction of the timer in some time trials, but the timer operates correctly in other time trials, the accurate electronic times will not be discarded, nor will the average of the hand times be used for all time trials. ()

04. Accuracy Questioned. If the accuracy of the electronic timer or the average of the hand times, or both, are questioned, the video of a time trial may be used by the Board of Stewards to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. ()

05. Based on Video. When the timer malfunctions and there are no hand times, the Board of Stewards may select qualifiers based on the video. ()

686. QUALIFICATION BASED ON ORDER OF FINISH.

01. Order of Finish. Qualification for finals may be based upon order of finish in the trials as opposed to time. ()

02. Top Finishers. The top finishers in each trial heat will qualify in equal numbers from each heat with the total number of qualifiers limited to the maximum number of starting gate positions. ()

03. Equal Number of Qualifiers. In the event an equal number of qualifiers from each trial heat will not be sufficient to fill all starting gate positions, the remaining positions will be filled by lot between the horses in each trial heat that finished directly behind those that qualified. ()

687. STARTING GATE MALFUNCTION.

01. Malfunction. Should there be a malfunction of the starting gate, and one (1) or more stall doors do not open or open after the exact moment when the starter dispatches the field, the Board of Stewards may declare the horses with malfunctioning stall doors non-starters and the starting and entry fees refunded, or may allow any horse whose stall door opened late, but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. ()

02. Breaks Through Gate. If a horse breaks through the stall door, or the stall door opens prior to the exact moment the starter dispatched the field, the horse must be declared a non-starter and the starting and entry fees refunded. If the field has not been dispatched, the horse may be allowed to start at the discretion of the Stewards. ()

03. Considered Starters. If one (1) or more, but not all, stall doors open at the exact moment the starter purposely dispatches the field, all horses should be considered starters for qualifying purposes and placed according to their electronic time. ()

688. SCRATCHED FROM TRIALS.

If a horse should be scratched from the trials, the horse’s owner is not eligible for a refund of the fees paid and is not allowed to enter the final. ()

689. SCRATCHED FROM FINALS.

If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test or a rule violation, the horse is deemed to have earned and the owner will receive, last place purse money. If more than one (1) horse is scratched from the final, then those purse monies will be added together and divided equally among those owners. ()

690. QUALIFIER INELIGIBLE.

01. Prior to Entry. If a qualifier for a final or consolation is disqualified for ineligibility or a rule violation after the trials are declared official, but prior to entry for the final or consolation, the next eligible horse to qualify will replace the disqualified horse. ()

02. After Entry. If a qualifier is disqualified after entry for the final or consolation for ineligibility or a rule violation in the trials, the purse will be redistributed, and the next eligible horse to qualify will receive last place purse money. ()

691. ALSO ELIGIBLE.

01. Also Eligibles. There will be no more than four (4) also eligibles selected when one (1) division of a stake is to be run. Horses cannot be advanced after the regular advertised scratch time. ()

02. No Also Eligible List. When two (2) or more divisions of the same stake are to be run, there will be no “also eligible list” in any of the two (2) or more divisions and if a horse should scratch, the owner will receive last place purse money in that particular division for which the horse qualified. ()

03. More Than One Scratch. If more than one (1) horse should scratch out of the same division, than those monies will be added together and divided equally among those scratching out of that division. ()

692. JOCKEY ROOM CUSTODIAN.

The Jockey Room Custodian must be in attendance at all times that the Jockeys are in the Jockey room. The Custodian is authorized to regulate the conduct of Jockeys. ()

693. IDENTIFIER.

01. Identifier. The Identifier is responsible for positively identifying all horses entered to race. ()

02. Inspection. The Identifier inspects each horse prior to its departure for the post. ()

03. Other. The Identifier inspects, identifies and prepares I.D. cards by using the lip tattoo or microchip, markings from photos, written descriptions, or National Animal Identification System compliant devices. ()

694. -- 699. (RESERVED)

SUB AREA B6: CLAIMING RACES
(Sections 700-799)

700. FREE AND CLEAR TITLE.

No person may enter a horse in a claiming race unless the title to said horse is free and clear of any existing lien, either as security interest mortgage, bill of sale, or lien of any kind. ()

701. TITLE VESTED.

Title to a claimed horse must be transferred to the claimant at the time the horse becomes an official starter. The successful claimant must then become the owner of the horse whether it be alive or dead, sound or unsound or injured at any time after becoming an official starter. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse. ()

702. IN-FOAL FILLY OR MARE.

An in-foal filly or mare is eligible to be entered into a claiming race only if the following conditions are fulfilled: ()

01. Condition Disclosed. Full disclosure of such fact is on file with the racing secretary and such information is posted in the racing office; ()

02. Service Certificate. The stallion service certificate has been deposited with the racing secretary's office; and ()

03. Release of Service Certificate. The release of the stallion service certificate to the successful claimant at the time of claim is guaranteed. ()

703. -- 719. (RESERVED)

720. RESCISSION OF CLAIM.

The Board of Stewards may set aside and order rescission of a claim for any horse from a claiming race run in Idaho upon a showing that any party to the claim committed a prohibited action, as specified in any Racing Commission rule, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of any Racing Commission rule. Should the Board of Stewards order a rescission of a claim, they may make a further order for the costs of maintenance and care of the horse as they may deem appropriate. ()

721. CLAIMED FOR ENTERED PRICE.

Any horse starting in a claiming race is subject to be claimed for its entered price by any: ()

01. Licensed Owner. Owner licensed in Idaho; ()

02. Authorized Agent. Licensed authorized agent acting on behalf of an eligible person. ()

722. ELIGIBLE HORSES.

No horse which has been claimed out of a claiming race in which said horse was declared the official winner, is eligible to start in any other claiming race for a period of thirty (30) days, exclusive of the day it was claimed, for less than twenty-five percent (25%) more than the amount for which it was claimed. A horse which has been claimed out of a claiming race in which said horse was not declared the official winner may be eligible to start for any price desired by the claimant. No horse which has been claimed out of a claiming race is eligible to race at any other race meeting in this state or elsewhere until the close of the meeting where it was claimed, unless its removal from the grounds of such meeting is approved by the Board of Stewards for good cause or is required by the Racing Association where it was claimed. ()

723. -- 729. (RESERVED)

730. PROHIBITIONS.

01. Financial or Beneficial Interest. A person may not claim a horse in which the person has a financial or beneficial interest as an owner or trainer. ()

02. Undisclosed Financial or Beneficial Interest. A person may not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse. ()

03. Agreement. A person may not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race. ()

04. Ineligible or Undisclosed Person. A person may not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person. ()

05. No More Than One Horse. A person may not claim more than one (1) horse in a race. No authorized agent may submit more than one (1) claim for the same horse in a race, even if the authorized agent represents several owners. When a trainer's stable consists of more than one (1) owner, each owner may submit a claim in any one race, but no two (2) or more can submit a claim for any one (1) horse or all such claims are void. No person, corporation, partnership, stable name, or other legal entity will be eligible to claim another owner's horse from his own trainer's stable. ()

731. VALID CLAIMS.

To make a valid claim for a horse, an eligible person must: ()

01. Funds on Deposit. Have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes; ()

02. Written Claim Form. Complete a written claim on a form furnished by the racing association and approved by the Racing Commission; ()

03. Horses Name. Identify the horse to be claimed by the spelling of its name as the name appears on the certificate of registration or as spelled on the official program; ()

04. Sealed Envelope. Place the completed claim form inside a sealed envelope furnished by the racing association and approved by the Racing Commission; ()

05. Time of Day. Have the time of day that the claim is entered, recorded or electronically stamped by a racing official at the paddock on the envelope; and ()

06. Deposit Envelope. Have the envelope deposited in the claim box no later than ten (10) minutes prior to post time of the race for which the claim is entered. ()

732. CLAIMS ARE IRREVOCABLE.

After a claim has been deposited in the claim box, it is irrevocable by the claimant and may not be withdrawn from the claim box until the time designated by the Board of Stewards. ()

733. NO INFORMATION PROVIDED.

Officials and employees of the racing association may not provide any information as to the filing of claims until after the race has been run, except as is necessary for processing of the claim. ()

734. MORE THAN ONE CLAIM.

If more than one (1) claim is filed on a horse, the successful claim must be determined by drawing lots conducted by the Stewards or their representatives. ()

735. SEX OR AGE OF A HORSE CLAIMED.

Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse is solely responsible for the determination of the sex or age of any horse claimed. ()

736. -- 739. (RESERVED)

740. TRANSFER OF OWNERSHIP.

Upon successful claim an authorization of transfer of the horse from the original owner to the claimant must be issued by the Board of Stewards on forms approved by the Racing Commission. Copies of the transfer authorization must be forwarded to and maintained by the Board of Stewards and the racing office. Upon notification by the stewards, the horsemen's bookkeeper must immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees. ()

741. TRANSFER OF POSSESSION.

Transfer of possession of a claimed horse must take place immediately after the race has been run unless otherwise directed by the stewards. If the horse has to be taken to the test barn for post-race testing, the original trainer or an authorized representative must maintain physical custody of the claimed horse and observe the testing procedure and sign the test sample tag. The successful claimant or an authorized representative of that claimant may also accompany the horse to the test barn. ()

742. DELIVERY OF A CLAIMED HORSE.

No person may refuse to deliver a properly claimed horse to the successful claimant. ()

743. TRANSFER OF ENGAGEMENTS.

When a horse is claimed out of a claiming race, the horse's engagements and eligibilities are transferred, with the horse, to the claimant. ()

744. RESALE OR TRANSFER OF OWNERSHIP.

Ownership interest in any horse claimed from a race may not be resold or transferred for thirty (30) days after such horse was claimed, except by claim from a subsequent race. ()

745. CONTROL OR MANAGEMENT OF FORMER OWNER.

A claimed horse may not remain in the same stable or under the control or management of its former owner. ()

746. -- 799. (RESERVED)

SUBCHAPTER C: TYPES OF WAGERING IN THE STATE OF IDAHO
(Sections 800-999)

SUB AREA C1: PARI-MUTUEL WAGERING
(Sections 800-899)

800. GENERAL PROVISIONS.

01. Pari-Mutuel System. Pari-mutuel wagering utilizes a totalizator system to pool wagers. The totalizator system may be located on property of a racing association or may, subject to compliance with applicable law and these rules, reside at another location. ()

02. Wagering Subject to Approval. Wagering subject to approval and compliance with applicable laws and rules, may be accepted by separate totalizator systems in this or another jurisdictions, and combine via communication between totalizator systems. ()

03. Designee. The Racing Commission may utilize a designee for the purposes of licensing, certification, verification, inspection, testing, and investigation. A Racing Commission designee may be another Racing Commission or equivalent regulatory authority, a multi-jurisdictional group of regulatory authorities, a racing association of regulatory authorities, or auditing, consulting, security, investigation, legal services, or other qualified entities or persons. ()

04. Multi-Jurisdiction Agreements. The Racing Commission may enter into multi-jurisdiction agreements with other regulatory authorities to facilitate certification of compliance with requirements by and licensing of, totalizator companies, entities providing services for simulcasting and common pool wagering, secondary pari-mutuel organizations, and advance deposit account wagering systems. At a minimum such agreements need to ensure certification and licensing requirements comparable to this jurisdiction. ()

801. PARI-MUTUEL WAGERING.

The following requirements are applicable to racing associations licensed by the Racing Commission that offers pari-mutuel wagering. These requirements are also to such organizations licensed or approved by other regulatory authority as a condition of Racing Commission approval of any agreement or contract for simulcasting or common pool wagering ()

01. Pari-Mutuel Tickets. A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool

and is evidence of the obligation to pay to the holder of such portion of the distributable amount of the pari-mutuel pool as is represented by a valid pari-mutuel ticket. The racing association must cash all valid winning tickets when they are presented for payment during the course of the meeting where sold, and for a specified period after the last day of the meeting. ()

02. Valid Pari-Mutuel Ticket. To be deemed a valid pari-mutuel ticket, the ticket must have been issued by a pari-mutuel ticket machine operated by the racing association and issued as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as follows: ()

- a. The name of the racing association operating the meeting; ()
- b. A unique identifying number or code; ()
- c. Identification of the terminal at which the ticket was issued; ()
- d. A designation of the performance for which the wagering transaction was issued; ()
- e. The contest number for which the pool is conducted; ()
- f. The type or types of wagers represented; ()
- g. The number or numbers representing the betting interests for which the wager is recorded; and, ()
- h. The amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence. ()

03. Previously Paid, Cancelled, or Non-Existent Pari-Mutuel Ticket. No pari-mutuel ticket recorded or reported as previously paid, cancelled, or non-existent may be deemed a valid pari-mutuel ticket by the racing association. The racing association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as in these rules. ()

802. PARI-MUTUEL TICKET SALES.

01. Ticket Sales. Pari-mutuel tickets may not be sold by anyone other than a racing association licensed to conduct pari-mutuel wagering. ()

02. Wager -- Person Under Eighteen. No person under eighteen (18) years of age is allowed to wager. ()

03. License -- Person Under Eighteen. No person under eighteen (18) years of age may be granted a license to work in the pari-mutuel department. ()

04. Wagering by Employees of the Mutuel Department not Permitted. Wagering by employees of the mutuel department is not permitted while on duty. Violation of this rule may result in the revocation of the offender's license. ()

05. Purchase of Pari-Mutuel Tickets for Hire or Gratuity. Only persons or messengers employed by the racing associations and approved by the Racing Commission may directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any or part of a pari-mutuel pool or another for hire or for any gratuity. ()

06. Closed Wagering. No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no racing association will be responsible for ticket sales not recorded into or not completed by issuance of a ticket before the totalizator is closed for wagering on such contest. ()

07. Claims by Bettor. Claims pertaining to a mistake on an issued ticket, or a mistake involving failure

to issue a ticket, must be made by the bettor prior to leaving the seller's window except in accordance with written policies established by the racing association and approved by the Racing Commission. ()

08. Payment on Winning Pari-Mutuel Wagers. Payment on winning pari-mutuel wagers is made on the basis of the order of finish as purposely posted and declared "official." Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the Board of Stewards or Racing Commission will in no way affect the pari-mutuel payout. If an error in the posted order of finish or payout figures is discovered, the official order of finish or payout prices may be corrected and an announcement concerning the change must be made to the public. ()

09. Cancellation or Exchange Tickets. Cancellation or exchange of tickets issued is not permitted after a patron has left a seller's window, except in accordance with written policies established by the racing association and approved by the Racing Commission. ()

10. Claims on Lost, Mutilated, or Altered Tickets. The racing association may satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization of the Racing Commission. ()

11. Equipment Failure. The racing association has no obligation to enter a wager into a betting pool if unable to do so due to equipment failure. ()

803. ADVANCE WAGERING.

No racing association may permit wagering to begin more than one (1) hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the Racing Commission. This does not preclude earlier common pool wagers in accordance with a contract with the host association that has been approved by the Racing Commission. ()

804. CLAIMS FOR PAYMENT FROM PARI-MUTUEL POOL.

At a designated location, a written, verified claim for payment from a pari-mutuel pool must be accepted by the racing association in any case wherein the racing association has withheld payment or has refused to cash a pari-mutuel wager. The claim must be made on such form as approved by the Racing Commission with the original claim forwarded to the Racing Commission within 48 hours. ()

01. Claim for Mutilated Ticket. In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements outlined in these rules, the racing association will make a recommendation to accompany the claim forwarded to the Racing Commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket. ()

02. Racing Commission to Adjudicate or Deny Claim. In the case of a claim made for payment on a pari-mutuel wager, the Racing Commission will adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the racing association, or may deny the claim, or may make such other order, as it may deem proper as provided for in Section 817 of these rules. ()

805. PAYMENT FOR ERRORS.

If an error occurs in the payment amounts for pari-mutuel wagers that are cashed or entitled to be cashed and, as a result of such error, the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following applies: ()

01. Underpayments. Verification is required to show that the amount of the commission, the amount in breakage, and the amount in payouts is equal to the total gross pool. If the amount of the pool is more than the amount used to calculate the payout, the underpayment belongs to the Racing Commission. In the event there is an underpayment on any race in the amount actually due to the wagerers, the amount of such underpayments to wagerers, at the end of each day of racing, will revert to and be paid to the Racing Commission and may not be retained by the racing association. ()

02. Underpayment Claim. Any claim not filed with the racing association within thirty (30) days, inclusive of the date on which the underpayment was publicly announced, is deemed waived; and the racing association has no further liability. ()

03. Overpayment. In the event the error results in an overpayment to winning wagers, the racing association is responsible for such payment. ()

806. -- 809. (RESERVED)

810. BETTING EXPLANATION.

A summary explanation of pari-mutuel wagering and each type of betting pool offered must be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on the racing association grounds and available upon request through racing association representatives. ()

811. DISPLAY OF BETTING INFORMATION.

01. Approximate Odds for Win Pool. Approximate odds for Win pool betting must be posted on display devices within view of the wagering public and updated at intervals of not more than sixty (60) seconds for the current race of the performance. ()

02. Probable Payout. The probable payout or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the Racing Commission. ()

03. Official Results and Payouts. Official results and payouts must be displayed upon each contest being declared official. ()

04. Errors Corrected Promptly. If an error is made in posting the payoff figures on the public board, it will be corrected promptly and only the correct amounts will be used in the payoff, irrespective of the error. If because of mechanical failure it is impossible to promptly correct the posted payoff, a statement must be made over the public address system stating the facts and corrections. ()

812. CANCELLED CONTESTS.

If a contest is cancelled or declared “no contest,” refunds must be granted on valid wagers in accordance with these rules. ()

01. Refunds. Notwithstanding other provisions of these rules, refunds of the entire pool must be made on: ()

a. Win pools, Exacta pools, and first-half Double pools offered in contests in which the number of betting interests has been reduced to fewer than two (2). ()

b. Place pools, Quinella pools, Trifecta pools, first-half Quinella Double pools, first-half Twin Quinella pools, first-half Twin Trifecta pools, and first-half Tri-Superfecta pools offered in contest in which the number of betting interests has been reduced to fewer than three (3). ()

c. Show pools, Superfecta pools, and first-half Twin Superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four (4). ()

02. Authorized Refund to be Paid. Authorized refunds must be paid upon presentation and surrender of the affected pari-mutuel ticket. ()

03. Scratched Horse. If a horse is scratched from racing after the betting has begun, the money bet on that horse must be refunded; except that when the horse is part of an Entry or the Field there will be no refund if the Entry or the Field, as the case may be, has at least one (1) actual starter. ()

04. Horse Prevented from Racing Because of Starting Gate Failure. If it is determined by the Board of Stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open, the money bet on that horse must be refunded; except that when the horse is part of an Entry or the Field there

will be no refund if the Entry or the Field, as the case may be, has at least one (1) actual starter. ()

05. Coupled Entries and Mutuel Fields. If no horse finished in a race, all money wagered on that race must be refunded. ()

813. COUPLED ENTRIES AND MUTUEL FIELDS.

01. Coupled Entry Considered Single Betting Interest. Contestants coupled in wagering as a coupled entry or mutuel field are considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestant in that coupled entry or mutuel field may remain valid betting interests and no refunds will be granted; or the Board of Stewards may order a refund for the entire betting interest. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests must be refunded, notwithstanding other provisions of these rules. ()

02. Dead Heat Involving Coupled Entry. For the purpose of price calculations only, coupled entries and mutuel fields are calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule applies to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules. ()

814. POOLS DEPENDANT UPON BETTING INTERESTS.

01. Offer Wagering Pools. Unless otherwise provided by the Racing Commission, upon request received no later than twenty-four (24) hours after the post position draw, at the time the pools are opened for wagering, the racing association: ()

a. Must offer: ()

i. Win wagering on all contests with three (3) or more betting interests. May offer win wagering on all contests with two (2) or more betting interests. ()

ii. Place wagering on all contests with four (4) or more betting interests. If the number of starting betting interests drops below four (4), the racing association may at its discretion cancel place wagering. The racing association must make an appropriate public address announcement. ()

iii. Show wagering on all contests with five (5) or more betting interests. If the number of starting betting interests drops below five (5), the racing association may at its discretion cancel show wagering. The racing association must make an appropriate public address announcement. ()

b. May offer: ()

i. Quinella wagering on all contests with three (3) or more betting interests. ()

ii. Quinella double wagering on all contests with three (3) or more betting interests. ()

iii. Exacta wagering on all contests with two (2) or more betting interests. ()

iv. Trifecta wagering on all contests with three (3) or more betting interests. ()

v. Superfecta wagering on all contests with four (4) or more betting interests. ()

vi. Twin quinella wagering on all contests with three (3) or more betting interests. ()

c. May not offer twin trifecta, tri-superfecta or twin trifecta wagering on any contests with six (6) or less betting interests. ()

815. PRIOR APPROVAL FOR BETTING POOLS.

01. Prior Approval for Betting Pools. A racing association that desires to offer new forms of wagering must apply in writing to the Racing Commission and receive written approval prior to implementing the new betting pool. ()

02. Suspend Previously Approved Forms of Wagering. The racing association may suspend previously-approved forms of wagering with the prior approval of the Racing Commission. Any carryover must be held until the suspended form of wagering is reinstated. A racing association may request approval of a form of wagering or separate wagering pool for specific performances. ()

816. CLOSING OF WAGERING IN A CONTEST.

01. Close Wagering. A Racing Commission representative must close wagering for each contest after which time no pari-mutuel tickets may be sold for that contest. ()

02. Approved Close Wagering System. The racing association must maintain, in good order, a system approved by the Racing Commission for closing wagering. ()

817. COMPLAINTS PERTAINING TO PARI-MUTUEL OPERATIONS.

01. Compliance Report. When a patron makes a complaint regarding the pari-mutuel department to a racing association, the racing association must immediately issue a compliance report, setting out: ()

- a. The name of the complainant; ()
- b. The nature of the complaint; ()
- c. The name of the persons, if any, against whom the complaint was made; ()
- d. The date of the complaint; and ()
- e. The action taken or proposed to be taken, if any, by the racing association. ()

02. Submit Complaint to Racing Commission. The racing association must submit every complaint report to the Racing Commission within forty-eight (48) hours after the complaint was made. The Racing Commission will review the complaint and a decision must be issued within seven (7) working days. ()

818. LICENSEES -- DUTY TO REPORT.

All licensees must report any known irregularities or wrong doings by any person involving pari-mutuel wagering immediately to the Racing Commission and cooperate in subsequent investigations. ()

819. EMERGENCY SITUATIONS.

In the event of an emergency in connection with the pari-mutuel department not covered in these rules, the pari-mutuel manager representing the racing association must report the problem to the Board of Stewards and the racing association and the Board of Stewards render a full report to the Racing Commission within forty-eight (48) hours. ()

820. UNRESTRICTED ACCESS.

The racing association must permit the Racing Commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the racing association that relate to pari-mutuel wagering. ()

821. PARI-MUTUEL CASH VOUCHERS.

01. Cash Vouchers. Pari-mutuel cash vouchers may be offered by a racing association that issues pari-mutuel tickets. These vouchers must be dispensed through the totalizator system. The stored value on a voucher may be redeemed in the same manner as a value of a winning pari-mutuel ticket for wagers placed at a pari-mutuel

window or a self-service terminal, and may be redeemed for their cash value at any time. ()

02. Vouchers as Incentives or Promotional Prizes. A racing association may, with the prior approval of the Racing Commission, issue special pari-mutuel cash vouchers as incentives or promotional prizes, and may restrict the use of those vouchers to the purchase of pari-mutuel wagers. ()

03. Voucher Identification Number. The tote system transaction record for all pari-mutuel vouchers must include the voucher identification number in subsequent pari-mutuel transactions and pari-mutuel wagers made from a voucher must identify the voucher by identification number. ()

822. OTHER STORED VALUE INSTRUMENTS AND SYSTEMS.

01. Stored Value Instrument or System. A racing association may not utilize any form of stored value instrument or system other than a pari-mutuel voucher for purpose of making or cashing pari-mutuel wagers without the prior approval of the Racing Commission,. ()

02. Request for Approval. Any request for approval of a stored value instrument or system must include a detailed description of the standards utilized: ()

a. To identify the specific stored value instrument or account in the pari-mutuel system wagering transaction record; ()

b. To verify the identity and business address of the person(s) obtaining, holding, and using the stored value instrument or system; ()

c. To record and maintain records of deposits, credits, debits, transaction numbers, and account balances involving the stored value instruments or accounts. ()

03. Prevent Wagering Transactions. A stored value instrument or system must prevent wagering transactions in the event such transactions would create a negative balance in an account, and may not operate so as to automatically facilitate a transfer of funds into a stored value instrument or account without the direct authorization of each such deposit transfer by the person holding the instrument or account. ()

04. Affirmation. Any request for approval of a stored value instrument or system must include an affirmation of the ready availability when requested by the Racing Commission. All records and reports relating to all transactions, account records, and customer identification and verification in hard copy or standard electronic format approved by the Racing Commission certification of secure retention of all records for a period of not less than three (3) years or such longer period specified by the Racing Commission. ()

823. -- 829. (RESERVED)

830. CALCULATION OF PAYOFFS AND DISTRIBUTION OF POOLS.

01. Pari-Mutuel Wagering Pools Separately and Independently Calculated and Distributed. All permitted pari-mutuel wagering pools must be separately and independently calculated and distributed. Takeout will be deducted from each gross pool as stipulated by law. The remainder of the monies in the pool constitutes the net pool for distribution as payoff on winning wagers. ()

02. Standard or Net Price Calculation. Either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools. ()

03. Profit per Dollar. For each wagering pool, the amount wagered on the winning betting interest or betting combinations is deducted from the net pool to determine the profit; the profit is then divided by the amount wagered on the winning betting interest or combinations, such quotient being the profit per dollar. ()

04. Single Commission Pools. With written approval from the Racing Commission, either the standard

or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools. ()

i. Profit Split (Place Pool). Profit is net pool less gross amount bet on all place finishers. Finishers split profit one-half (1/2) and one-half (1/2) (place profit), then divide by gross amount bet on each place finisher for two (2) unique prices. ()

ii. Profit Split (Show Pool). Profit is net pool less gross amount bet on all show finishers. Finishers split profit one-third (1/3) and one-third (1/3) and one-third (1/3) (show profit), then divide by gross amount bet on each show finisher for three (3) unique prices. ()

i. Profit Split (Place Pool). Total profit is the total net pool less the total net amount bet on all place finishers. Finishers split total profit one-half (1/2) and one-half (1/2) (place profit), then divide by total net amount bet on each place finisher for two (2) unique unbroken base prices. ()

ii. Profit Split (Show Pool). Total profit is the total net pool less the total net amount bet on all show finishers. Finishers split total profit one-third (1/3) and one-third (1/3) and one-third (1/3) (show profit), then divide by total net amount bet on each show finisher for three (3) unique unbroken base prices. ()

c. If a profit split results in only one (1) covered winning betting interest or combinations it is calculated the same as a single price pool. ()

d. Minimum payout and the method used for calculating breakage are established by the Racing Commission. ()

e. The individual pools outlined in these rules may be given alternative names by each racing association, provided prior approval is obtained from the Racing Commission. ()

f. In the event a minus pool occurs in either the Win, Place or Show pool, the expense of said minus pool will be born by the racing association and the State will receive intact its share of the remaining pools. ()

831. WIN POOLS.

01. Win Pools. The amount wagered on the betting interest that finishes first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered to Win on that betting interest. ()

02. Net Win Pool. The net Win pool must be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish: ()

a. To those whose selection finished first; but if there are no such wagers, then; ()

b. To those whose selection finished second; but if there are no such wagers, then; ()

c. To those whose selection finished third; but if there are no such wagers, then; ()

d. The entire pool must be refunded on Win wagers for that contest. ()

03. Dead Heat for First. If there is a dead heat for first involving: ()

a. Contestants representing the same betting interest, the Win pool is distributed as if no dead heat occurred. ()

b. Contestants representing two (2) or more betting interests, the Win pool is distributed as a profit split. ()

832. PLACE POOLS.

01. Place Pools. The amounts wagered to Place on the first two (2) betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two (2) equal portions, one (1) being assigned to each winning betting interest and divided by the amount wagered to Place on that betting interest, the resulting quotient is the profit per dollar wagered to Place on that betting interest. ()

02. Net Place Pool. The net Place pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. If contestants of a coupled entry or mutuel field finished in the first two (2) places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise ()

b. As a profit split to those whose selection is included within the first two (2) finishers; but if there are no such wagers on one (1) of those two (2) finishers, then; ()

c. As a single price pool to those who selected the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; ()

d. As a single price pool to those who selected the third-place finisher; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Place wagers for that contest. ()

03. Dead Heat for First. If there is a dead heat for first involving: ()

a. Contestants representing the same betting interest, the Place pool must be distributed as a single price pool. ()

b. Contestants representing two (2) or more betting interest, the Place pool must be distributed as a profit split. ()

04. Dead Heat for Second. If there is a dead heat for second involving: ()

a. Contestants representing the same betting interest, the Place pool is distributed as if no dead heat occurred. ()

b. Contestants representing two (2) or more betting interests, the Place pool is divided with one-half (1/2) of the profit distributed to Place wagers on the betting interest finishing first and the remainder is distributed equally among Place wagers on those betting interests involved in the dead heat for second. ()

833. SHOW POOLS.

01. Show Pools. The amounts wagered to Show on the first three (3) betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three (3) equal portions, one (1) being assigned to each winning betting interest and divided by the amount wagered to Show on that betting interest, the resulting quotient being the profit per dollar wagered to Show on that betting interest. ()

02. Net Show Pool Distribution. The net Show pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. If contestants of a coupled entry or mutuel field finished in the first three (3) places, as a single price pool to those who selected the couple entry or mutuel field, otherwise; ()

b. If contestants of a coupled entry or mutuel field finished as two (2) of the first three (3) finishers, the profit is divided with two-thirds (2/3) distributed to those who selected the coupled entry or mutuel field and one-third (1/3) distributed to those who selected the other betting interest included within the first three (3) finishers, otherwise; ()

c. As a profit split to those whose selection is included within the first three (3) finishers; but if there are no such wagers on one (1) of those three (3) finishers, then; ()

d. As a profit split to those who selected one (1) of the two (2) covered betting interests included within the first three (3) finishers; but if there are no such wagers on two (2) of those three (3) finishers, then: ()

e. As a single price pool to those who selected the one (1) covered betting interest included within the first three (3) finishers; but if there are no such wagers, then; ()

f. As a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then; ()

g. The entire pool must be refunded on Show wagers for that contest. ()

03. Dead Heat for First. If there is a dead heat for first involving: ()

a. Two (2) contestants representing the same betting interest, the profit is divided with two-thirds (2/3) distributed to those who selected the first-place finishers and one-third (1/3) distributed to those who selected the betting interest finishing third. ()

b. Three (3) contestants representing a single betting interest, the Show pool must be distributed as a single price pool. ()

c. Contestants representing two (2) or more betting interests, the Show pool must be distributed as a profit split. ()

04. Dead Heat for Second. If there is a dead heat for second involving: ()

a. Contestants representing the same betting interest, the profit is divided with one-third (1/3) distributed to those who selected the betting interest finishing first and two-thirds (2/3) distributed to those who selected the second-place finishers. ()

b. Contestants representing two (2) betting interests, the Show pool must be distributed as a profit split. ()

c. Contestants representing three (3) betting interests, the Show pool is divided with one-third (1/3) of the profit distributed to Show wagers on the betting interest finishing first and the remainder is distributed equally amongst Show wagers on those betting interests involved in the dead heat for second. ()

05. Dead Heat for Third. If there is a dead heat for third involving: ()

a. Contestants representing the same betting interest, the Show pool must be distributed as if no dead heat occurred. ()

b. Contestants representing two (2) or more betting interests, the Show pool is divided with two-thirds (2/3) of the profit distributed to Show wagers on the betting interests finishing first and second and the remainder is distributed equally among Show wagers on those betting interests involved in the dead heat for third. ()

834. DOUBLE POOLS.

01. Double Pools. Only one (1) Daily Double will be permitted during a single racing day, unless approval is obtained from the Racing Commission. ()

02. First Place Finisher. The Double requires selection of the first-place finisher in each of two (2) specified contests. ()

03. Winning Distribution. The net Double pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. As a single price pool to those whose selection finished first in each of the two (2) contests; but if there are no such wagers, then; ()

b. As a profit split to those who selected the first-place finisher in either contest; but if there are no such wagers, then; ()

c. As a single price pool to those who selected the one (1) covered first-place finisher in either contest; but if there are no such wagers, then; ()

d. As a single price pool to those whose selection finished second in each of the two (2) contests; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Double wagers for those contests. ()

04. Dead Heat for First. If there is a dead heat for first in either of the two (2) contests involving: ()

a. Contestants representing the same betting interest, the Double pool is distributed as if no dead heat occurred. ()

b. Contestants representing two (2) or more betting interests, the Double pool is distributed as a profit split if there is more than one (1) covered winning combination. ()

05. Scratched Interest -- First-Half. Should a betting interest in the first-half of the Double be scratched prior to the first Double contest being declared official, all money wagered on combinations including the scratched betting interest is deducted from the Double pool and refunded. ()

06. Scratched Interest -- Second-Half. Should a betting interest in the second-half of the Double be scratched prior to the close of wagering on the first Double contest, all money wagered on combinations including the scratched betting interest is deducted from the Double pool and refunded. ()

07. Consolation Payout. Should a betting interest in the second-half of the Double be scratched after the close of wagering on the first Double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest are allocated a consolation payout. In calculating the consolation payout the net Double pool is divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net Double pool before calculation and distribution of the winning Double payout. Dead heats including separate betting interests in the first contest will result in a consolation payout calculated as a profit split. ()

08. Cancelled or “No Contest.” If either of the Double contests are cancelled prior to the first Double contest, or the first Double contest is declared “no contest,” the entire Double pool must be refunded on Double wagers for those contests. ()

09. Second Double Cancelled or “No Contest.” If the second Double contest is cancelled or declared “no contest” after the conclusion of the first Double contest, the net Double pool is distributed as a single price pool to wagers selecting the winner of the first Double contest. In the event of a dead heat involving separate betting interests, the net Double pool is distributed as a profit split. ()

10. Payoff Posting. Before the running of the last half of the Daily Double pool, the payoff of each combination coupled with the winner of the first half of the Daily Double must be posted in a prominent place. ()

11. Third Heat Announcement. In case of a dead heat for winner in the first half (1/2) of the Daily Double, the payoff of the Daily Double need not be posted until after the running of the second half (1/2) of the Daily Double. However, announcement of this fact must be made over the loud speaker and notice to this effect be posted on the board at conclusion of the first half (1/2) of the Daily Double. ()

12. Close of Sale. Sale of Daily Double tickets must close not later than “off-time” of the first race of the Daily Double. ()

13. Daily Double Not a Parlay. The Daily Double Pool is not a parlay and is not connected with the WIN, PLACE, SHOW or other pools in any manner whatsoever. ()

835. WIN THREE POOLS.

01. Win Three Pools. The Win Three (3) requires selection of the first-place finisher in each of three (3) specified contests. ()

02. Distribution. The net Win Three (3) pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. As a single price pool to those whose selection finished first in each of the three (3) contests; but if there are no such wagers, then; ()

b. As a single price pool to those who selected the first-place finisher in any two (2) of the three (3) contests; but if there are no such wagers, then; ()

c. As a single price pool to those who selected the first-place finisher in any one (1) of the three (3) contests; but if there are no such wagers, then; ()

d. The entire pool must be refunded on Win Three (3) wagers for those contests. ()

03. Dead Heat. If there is a dead heat for first in any of the three (3) contests involving: ()

a. Contestants representing the same betting interest, the Win Three (3) pool is distributed as if no dead heat occurred. ()

b. Contestants representing two (2) or more betting interests, the Win Three (3) pool is distributed as a single price pool and is distributed as follows: ()

i. As a profit split to those whose selections finished first in each of the three (3) contests; but if there are no such wagers, then; ()

ii. As a single price pools to those who selected the first place finisher in any two (2) of the three (3) contests; but if there are no such wagers, then; ()

iii. As a single price pool to those who selected the first place finisher in any one (1) of the three (3) contests; but if there are no such wagers, then; ()

iv. The entire Win Three pool is refunded. ()

04. Substitution of a Scratch. Should a betting interest be scratched from a leg of the Win Three (3) all bets with the scratched betting interest will be handled as follows: ()

a. If the scratch (that herein after includes being declared a non-starter or a non-betting starter) was made prior to the start of the first leg, all bets containing such scratched betting interest must be refunded to determine the gross pool an removed from further consideration in the pool; ()

b. If the scratch was made in the second leg after the start of the first leg, a consolation payoff will be computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: ()

i. The statutory take-out is deducted from the gross pool and then the amount represented by the bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). ()

ii. The resulting remainder is divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with the betting interest scratched in the second leg. The break may not be deducted from the pool. ()

c. If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff must be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: ()

i. The statutory take-out is deducted from the gross pool and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). ()

ii. The resulting remainder is divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with a betting interest scratched in the third leg. The breaks must not be deducted from the pool. ()

d. If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation payoff is computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows: ()

i. The takeout is deducted from the gross pool and the remainder is divided by the amount bet on the winner of the first leg combined with all other betting interests (less breaks) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratch betting interests from both the second and third legs. ()

05. All Three Cancelled. If all three (3) Win Three (3) contests are cancelled or declared “no contest,” the entire pool must be refunded on Win Three (3) wagers for those contests. ()

06. One or Two Canceled. If one (1) or two (2) of the Win Three (3) contests are cancelled or declared “no contest,” the Win Three (3) pool will remain valid and must be distributed in accordance with these rules. ()

836. PICK (N) POOLS.

01. Pick (n) Pools. The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Pick (n) contests, the designation of one (1) of the methods prescribed in these rules, and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) format require prior approval from the Racing Commission. ()

02. Apportioning the Pool. The Pick (n) pool is apportioned under one (1) of the following methods: ()

a. Method 1- Pick (n) with Carryover: The net Pick (n) pool and carryover, if any, must be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the remainder will be added to the carryover. ()

b. Method 2 - Pick (n) with Minor Pool and Carryover: The major share of the net Pick (n) pool and the carryover, if any, must be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the major will be added to the carryover. ()

c. Method 3 - Pick (n) with No Minor Pool and No Carryover: The net Pick (n) pool must be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded. ()

d. Method 4 - Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool must be distributed to those who selected the first place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool is combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded. ()

e. Method 5 - Pick (n) with Minor Pool and No Carryover: The major share of net Pick (n) pool must be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool is distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool is combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded. ()

f. Method 6 - Pick (n) with Minor Pool, Jackpot Pool, Major Carryover and Jackpot Carryover: Predetermined percentages of the net Pick (n) pool must be set aside as a Major pool, Minor pool and Jackpot pool. The Major share of the net Pick (n) pool and the Major carryover, if any, is distributed to those who selected the first-place finisher of each of the Pick (n) contests, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the Pick (n) contests, the Major net pool is added to the Major carryover. If there is only one (1) single ticket selecting the first-place finisher of each of the Pick (n) contests, based on the official order of finish, the Jackpot share of the net Pick (n) pool and the Jackpot carryover, if any, is distributed to the holder of that single ticket, along with the Major net pool and the Major carryover, if any. If more than one (1) ticket selects the first-place finisher of each of the Pick (n) contests the Jackpot net pool is added to the Jackpot carryover. The Minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher of the second greatest number of Pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the Minor net pool of the Pick (n) pool is distributed as a single price pool to those who selected the first-place finisher of the greatest number of Pick (n) contests. ()

03. Dead Heat. If there is a dead heat for first in any of the Pick (n) contests involving: ()

a. Contestants representing the same betting interest, the Pick (n) pool must be distributed as if no dead heat occurred. ()

b. Contestants representing two (2) or more betting interests, the Pick (n) pool must be distributed as a single price pool with each winning wager receiving an equal share of the profit. ()

04. Scratched Entry. Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at host association for the contest at the close of

wagering on that contest, will be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two (2) or more favorites is identical, the substitute selection will be the betting interest with the lowest program number. The totalizator must produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination. ()

05. Cancellation and Refunds. The Pick (n) pool will be cancelled and all Pick (n) wagers for the individual performance will be refunded, if: ()

a. At least two (2) contests included as part of a Pick Three (3) are cancelled or declared “no contest”; ()

b. At least three (3) contests included as part of a Pick Four (4), Pick Five (5) or Pick Six (6) are cancelled or declared “no contest”; ()

c. At least four (4) contests included as part of a Pick Seven (7), Pick Eight (8) or Pick Nine (9) are cancelled or declared “no contest”; or ()

d. At least five (5) contests included as part of a Pick Ten (10) are cancelled or declared “no contest.” ()

06. Net Pool Distribution. If at least one (1) contest included as part of a Pick (n) is cancelled or declared “no contest,” but not more than the number specified in these rules the net pool must be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests for that performance. Such distribution must include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances. ()

07. Course Condition. If the condition of the course warrants a change of racing surface in any of the legs of the Pick (n) races, and such change was not known to the public prior to the closing of wagering for the Pick (n) pool, the Board of Stewards must declare the changed leg(s) a “no contest” for Pick (n) wagering purposes only. A “no contest” race is not to be considered as a contested race. ()

08. Capped Carryover. The Pick (n) carryover may be capped at a designed level approved by the Racing Commission so that if, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick (n) carryover is frozen, one hundred (100%) percent of the net pool, part of which ordinarily would be added to the Pick (n) carryover, must be distributed to those whose selection finished first in the greatest number of Pick (n) contests for that performance. ()

09. Carryover Requested. A written request for permission to distribute the Pick (n) carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. ()

10. Single Price Distribution. Should the Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick (n) contests, the entire pool must be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests. The Pick (n) carryover must be designated for distribution on a specified date and performance only under the following circumstances: ()

a. Upon written approval from the Racing Commission as provided in these rules. ()

b. Upon written approval from the Racing Commission when there is a change in the carryover cap, a change from one (1) type of Pick (n) wagering to another or when the Pick (n) is discontinued. ()

c. On the closing performance of the meet or split meet. ()

11. Carryover Deposit. If, for any reason, the Pick (n) carryover must be held over to the corresponding Pick (n) pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Pick (n) carryover plus accrued interest must then be added to the net Pick (n) pool of the following meet on a date and performance so designated by the Racing Commission. ()

12. Contribution to Pool. With the written approval of the Racing Commission, the racing association may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap. ()

13. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited until the race is made official. This does not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data. ()

14. Suspension of Wagering. The racing association may suspend previously-approved Pick (n) wagering with the prior approval of the Racing Commission. Any carryover must be held until the suspended Pick (n) wagering is reinstated. A racing association may request approval of a Pick (n) wager or separate wagering pool for specific performances. ()

837. QUINELLA POOLS.

01. Quinella Pools. The Quinella requires selection of the first two (2) finishers, irrespective of order, for a single contest. ()

02. Distribution. The net Quinella pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. If contestants of a coupled entry or mutuel field finish as the first two (2) finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; ()

b. As a single price pool to those whose combination finished as the first two (2) betting interests; but if there are no such wagers, then; ()

c. As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one (1) of those two (2) finishers, then; ()

d. As a single price pool to those whose combination included the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Quinella wagers for that contest. ()

03. Dead Heat -- First Place. If there is a dead heat for first involving: ()

a. Contestants representing the same betting interest, the Quinella pool is distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. ()

b. Contestants representing two (2) betting interests, the Quinella pool is distributed as if no dead heat occurred. ()

c. Contestants representing three (3) or more betting interests, the Quinella pool is distributed as a profit split. ()

04. Dead Heat -- Second Place. If there is a dead heat for second involving contestants representing the same betting interest, the Quinella pool is distributed as if no dead heat occurred. ()

05. Dead Heat -- Two or More Interests. If there is a dead heat for second involving contestants

representing two (2) or more betting interests, the Quinella pool is distributed to wagers in the following precedence, based upon the official order of finish: ()

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; ()

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; ()

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then; ()

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Quinella wagers for that contest. ()

838. QUINELLA DOUBLE POOLS.

01. Quinella Double Pools. The Quinella Double requires selection of the first two (2) finishers, irrespective of order, in each of two (2) specified contests. ()

02. Distribution. The net Quinella Double pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. If a coupled entry or mutuel field finishes as the first two (2) contestants in either contest, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two (2) finishers in the alternate Quinella Double contest, otherwise; ()

b. As a single price pool to those who selected the first two (2) finishers in each of the two (2) Quinella Double contests; but if there are no such wagers, then; ()

c. As a profit split to those who selected the first two (2) finishers in either of the two (2) Quinella Double contests; but if there are no such wagers on one (1) of those contests, then; ()

d. As a single price pool to those who selected the first two (2) finishers in the one (1) covered Quinella Double contest; but if there were no such wagers, then; ()

e. The entire pool must be refunded on Quinella Double wagers for those contests. ()

03. Dead Heat - First Place. If there is a dead heat for first in either of the two (2) Quinella Double contests involving: ()

a. Contestants representing the same betting interest, the Quinella Double pool is distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest. ()

b. Contestants representing two (2) betting interests, the Quinella Double pool is distributed as if no dead heat occurred. ()

c. Contestants representing three (3) or more betting interests, the Quinella Double pool is distributed as a profit split. ()

04. Dead Heat -- Second Place. If there is a dead heat for second in either of the Quinella Double contests involving contestants representing the same betting interest, the Quinella Double pool is distributed as if no

dead heat occurred. ()

05. Dead Heat -- Second Place Two or More Interests. If there is a dead heat for second in either of the Quinella Double contests involving contestants representing two (2) or more betting interests, the Quinella Double pool is distributed as a profit split. ()

06. Betting Interest Deducted -- First Half. Should a betting interest in the first-half of the Quinella Double be scratched prior to the first Quinella Double contest being declared official, all money wagered on combinations including the scratched betting interest will be deducted from the Quinella Double pool and refunded. ()

07. Betting Interest Deducted -- Second Half. Should a betting interest in the second-half of the Quinella Double be scratched prior to the close of wagering on the first Quinella Double contest, all money wagered on combinations including the scratched betting interest will be deducted from the Quinella Double pool and refunded. ()

08. Consolation Payoff. Should a betting interest in the second-half of the Quinella Double be scratched after the close of wagering on the first Quinella Double contest, all wagers combining the winning combination in the first contest with a combination including the scratched betting interest in the second contest will be allocated a consolation payout. In calculating the consolation payout the net Quinella Double pool is divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first contest combined with a combination including the scratched betting interest in the second contest to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net Quinella Double pool before calculation and distribution of the winning Quinella Double payout. In the event of a dead heat involving separate betting interests, the net Quinella Double pool is distributed as a profit split. ()

09. Refunded Quinella. If either of the Quinella Double contests is cancelled prior to the first Quinella Double contest, or the first Quinella Double contest is declared “no contest,” the entire Quinella Double pool must be refunded on Quinella Double wagers for those contests. ()

10. Second Double Contest Cancelled. If the second Quinella Double contest is cancelled or declared “no contest” after the conclusion of the first Quinella Double contest, the net Quinella Double pool must be distributed as a single price pool to wagers selecting the winning combination in the first Quinella Double contest. If there are no wagers selecting the winning combination in the first Quinella Double contest, the entire Quinella Double pool must be refunded on Quinella Double wagers for those contests. ()

839. EXACTA POOLS.

01. Exacta Pools. The Exacta requires selection of the first two (2) finishers, in their exact order, for a single contest. ()

02. Distribution. The net Exacta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. If contestants of a coupled entry or mutuel field finish as the first two (2) finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; ()

b. As a single price pool to those whose combination finished in correct sequence as the first two (2) betting interests; but if there are no such wagers, then; ()

c. As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one (1) of those two (2) finishers, then; ()

d. As a single price pool to those whose combination included the one (1) covered betting interest to

finish first or second in the correct sequence; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Exacta wagers for that contest. ()

03. Dead Heat for First. If there is a dead heat for first involving: ()

a. Contestants representing the same betting interest, the Exacta pool is distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. ()

b. Contestants representing two (2) or more betting interests, the Exacta pool is distributed as a profit split. ()

04. Dead Heat for Second. If there is a dead heat for second involving contestants representing the same betting interest, the Exacta pool is distributed as if no dead heat occurred. ()

05. Dead Heat for Second -- Two or More Betting Interests. If there is a dead heat for second involving contestants representing two (2) or more betting interests, the Exacta pool is distributed to ticket holders in the following precedence, based upon the official order of finish: ()

a. As a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; ()

b. As a single price pool to those combining the first-place betting interest with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; ()

c. As a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but if there are no such wagers, then; ()

d. The entire pool must be refunded on Exacta wagers for that contest. ()

840. TRIFECTA POOLS.

01. Trifecta Pools. The Trifecta requires selection of the first three (3) finishers, in their exact order, for a single contest. ()

02. Distribution. The net Trifecta Pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; ()

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; ()

d. The entire pool must be refunded on Trifecta wagers for that contest. ()

03. Less Than Three Interests Finish. If less than three (3) betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest will be ignored. ()

04. Dead Heat for First. If there is a dead heat for first involving: ()

a. Contestants representing three (3) or more betting interests, all of the wagering combinations selecting three (3) betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split. ()

b. Contestants representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place betting interest will share in a profit split. ()

05. Dead Heat -- Second Place. If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second will share a profit split. ()

06. Dead Heat -- Third Place. If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third will share in a profit split. ()

07. Coupled Entries and Mutuel Fields. Trifecta pools with hard entries may not be established for any race with fewer than eight (8) racing interests scheduled to start. For those licensees who hold race meets only during their county fair meets, a trifecta pool can be established for any race with a hard entry in which there are no fewer than six (6) racing interests scheduled to start. In all cases, entrees coupled as a single wagering interest will be permitted provided that such single wagering interest constitutes an individual wagering selection and a scratch of any horse that is a part of any entry or the field does not constitute a scratch of the single wagering interest. ()

841. SUPERFECTA POOLS.

01. Superfecta Pools. The Superfecta requires selection of the first four (4) finishers, in their exact order, for a single contest. ()

02. Distribution. The net Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: ()

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; ()

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; ()

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Superfecta wagers for that contest. ()

03. Less Than Four Finish. If less than four (4) betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest will be ignored. ()

04. Dead Heat -- First Place. If there is a dead heat for first involving: ()

a. Contestants representing four (4) or more betting interests, all of the wagering combinations selecting four (4) betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split. ()

b. Contestants representing three (3) betting interests, all of the wagering combinations selecting the three (3) dead-heated betting interests, irrespective of order, along with the fourth-place betting interest will share in a

profit split. ()

c. Contestants representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests will share in a profit split. ()

05. Dead Heat -- Second Place. If there is a dead heat for second involving: ()

a. Contestants representing three (3) or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three (3) betting interests involved in the dead heat for second will share in a profit split. ()

b. Contestants representing two (2) betting interests, all of the wagering combinations correctly selecting the winner, the two (2) dead-heated betting interests, irrespective of order, and the fourth-place betting interest will share in a profit split. ()

06. Dead Heat - Third Place. If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any two (2) of the betting interests involved in the dead heat for third will share in a profit split. ()

07. Dead Heat -- Fourth Place. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three (3) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth will share in a profit split. ()

842. TWIN QUINELLA POOLS.

01. Twin Quinella Pools. The Twin Quinella requires selection of the first two (2) finishers, irrespective of order, in each of two (2) designated contests. Each winning ticket for the first Twin Quinella contest must be exchanged for a free ticket on the second Twin Quinella contest in order to remain eligible for the second-half Twin Quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Quinella contest. There will be no monetary reward for winning the first Twin Quinella contest. Both of the designated Twin Quinella contests will be included in only one (1) Twin Quinella pool. ()

02. Winning Procedure. In the first Twin Quinella contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Quinella contest: ()

a. If a coupled entry or mutuel field finishes as the first two (2) finishers, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish are winners, otherwise; ()

b. Those whose combination finished as the first two (2) betting interests are winners; but if there are no such wagers, then; ()

c. Those whose combination included either the first- or second-place finisher are winners; but if there are no such wagers on one (1) of those two (2) finishers, then; ()

d. Those whose combination included the one (1) covered betting interest included within the first two (2) finishers are winners; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Twin Quinella wagers for that contest. ()

03. Dead Heat -- First Place. In the first Twin Quinella contest only, if there is a dead heat for first involving: ()

a. Contestants representing the same betting interest, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish are winners. ()

b. Contestants representing two (2) betting interests, the winning Twin Quinella wagers are determined as if no dead heat occurred. ()

c. Contestants representing three (3) or more betting interests, those whose combination included any two (2) of the betting interests finishing in the dead heat are winners. ()

04. Dead Heat -- Second Place. In the first Twin Quinella contest only, if there is a dead heat for second involving contestants representing two (2) or more betting interests, the Twin Quinella pool will be distributed to wagers in the following precedence, based upon the official order of finish: ()

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second but if there is only one (1) covered combination, then; ()

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; ()

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then; ()

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead hear for second; but if there are no such wagers, then; ()

e. The entire pool must be refunded on Twin Quinella wagers for that contest. ()

05. Distribution. In the second Twin Quinella contest only, the entire net Twin Quinella pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Quinella contest: ()

a. If a coupled entry or mutuel field finishes as the first two (2) finishers, as a single price pool to those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; ()

b. As a single price pool to those whose combination finished as the first two (2) betting interests; but if there are no such wagers, then; ()

c. As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one (1) of those two (2) finishers, then; ()

d. As a single price pool to those whose combination included the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; ()

e. As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then; ()

f. In accordance with Subsection 842.02 of these rules. ()

06. Dead Heat -- First Place. In the second Twin Quinella contest only, if there is a dead heat for first involving: ()

a. Contestants representing the same betting interest, the net Twin Quinella pool will be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. ()

b. Contestants representing two (2) betting interests, the net Twin Quinella pool will be distributed as if no dead heat occurred. ()

c. Contestants representing three (3) or more betting interests, the net Twin Quinella pool will be distributed as a profit split to those whose combination included any two (2) of the betting interests finishing in the dead heat. ()

07. Dead Heat – Second Place. In the second Twin Quinella contest only, if there is a dead heat for second involving contestants representing two (2) or more betting interests, the Twin Quinella pool will be distributed to wagers in the following precedence, based upon the official order of finish: ()

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; ()

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; ()

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then;; ()

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, then; ()

e. As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then; ()

f. In accordance with Subsection 842.02 of these rules. ()

08. Forfeiture of Rights. If a winning ticket for the first-half of the Twin Quinella is not presented for exchange prior to the close of betting on the second-half Twin Quinella contest, the ticket holder forfeits all rights to any distribution of the Twin Quinella pool resulting from the outcome of the second contest. ()

09. First-Half Scratch. Should a betting interest in the first-half of the Twin Quinella be scratched, those Twin Quinella wagers including the scratched betting interest must be refunded. ()

10. Second-Half Scratch. Should a betting interest in the second-half of the Twin Quinella be scratched, an announcement concerning the scratch must be made and a reasonable amount of time be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Quinella contest, the ticket holder forfeits all rights to the Twin Quinella pool. ()

11. Contest Cancelled. If either of the Twin Quinella contests is cancelled prior to the first Twin Quinella contest, or the first Twin Quinella contest is declared “no contest,” the entire Twin Quinella pool must be refunded on Twin Quinella wagers for that contest. ()

12. Second-Half Cancelled. If the second-half Twin Quinella contest is cancelled or declared “no contest” after the conclusion of the first Twin Quinella contest, the net Twin Quinella pool will be distributed as a single price pool to wagers selecting the winning combination in the first Twin Quinella contest and all valid exchange tickets. If there is no such wagers, the net Twin Quinella pool must be distributed as described in Subsection 842.02 of these rules. ()

843. TWIN TRIFECTA POOLS.

01. Twin Trifecta Pools. The Twin Trifecta requires selection of the first three (3) finishers, in their exact order, in each of two (2) designated contests. Each winning ticket for the first Twin Trifecta contest must be exchanged for a free ticket on the second Twin Trifecta contest in order to remain eligible for the second-half Twin Trifecta pool. Such ticket may be exchanged only at attended ticket windows prior to the second Twin Trifecta contest. Winning first-half Twin Trifecta wagers will receive both an exchange and a monetary payoff. Both of the designated Twin Trifecta contests will be included in only one (1) Twin Trifecta pool. ()

02. Providing Pools. After wagering closes for the first-half of the Twin Trifecta and commissions

have been deducted from the pool, the net pool is then divided into separate pools: the first-half Twin Trifecta pool and the second-half Twin Trifecta pool. ()

03. Winning Precedence. In the first Twin Trifecta contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Trifecta contest: ()

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests, but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests, but if there are no such wagers, then; ()

c. As a single price pool to those whose combination correctly selected the first-place betting interest only, but if there are no such wagers, then; ()

d. The entire Twin Trifecta pool must be refunded on Twin Trifecta wagers for that contest and the second-half cancelled. ()

04. Carryover Pool. If no first-half Twin Trifecta ticket selects the first three (3) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Twin Trifecta pool. In such case, the second-half Twin Trifecta pool must be retained and added to any existing Twin Trifecta carryover pool. ()

05. Exchange of Tickets. Winning tickets from the first-half of the Twin Trifecta will be exchanged for tickets selecting the first three (3) finishers of the second-half of the Twin Trifecta. The second-half Twin Trifecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Trifecta contest: ()

a. As a single price pool, including any existing carryover monies, to those whose combination finished in the correct sequence as the first three (3) betting interests; but if there are no such tickets, then; ()

b. The entire second-half Twin Trifecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Twin Trifecta pool of the next consecutive performance. ()

06. Forfeiture of Rights. If a winning first-half Twin Trifecta ticket is not presented for cashing and exchange prior to the second-half Twin Trifecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Trifecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool. ()

07. Coupled Entries and Mutuel Field. Coupled entries and mutuel fields are prohibited in Twin Trifecta contests. ()

08. Scratched Interests. Should a betting interest in the first-half of the Twin Trifecta be scratched, those Twin Trifecta wagers including the scratched betting interest must be refunded. ()

09. Second-Half Betting Interest Scratch. Should a betting interest in the second-half of the Twin Trifecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Trifecta contest, the ticket holder forfeits all rights to the second-half Twin Trifecta pool. ()

10. Reduced Interests. If, due to a late scratch, the number of betting interests in the second-half of the Twin Trifecta is reduced to fewer than the minimum, all exchange tickets and the outstanding first-half winning tickets will be entitled to the second-half Twin Trifecta pool for that contest as a single price pool, but not the Twin Trifecta carryover. ()

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first or second-half of the Twin Trifecta, all Twin Trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In case of a dead heat occurring in: ()

a. The first-half of the Twin Trifecta, the payoff is calculated as a profit split. ()

b. The second-half of the Twin Trifecta, the payoff is calculated as a single price pool. ()

12. Cancelled Contest. If either of the Twin Trifecta contests are cancelled prior to the first Twin Trifecta contest, or the first Twin Trifecta contest is declared “no contest,” the entire Twin Trifecta pool must be refunded on Twin Trifecta wagers for that contest and the second-half cancelled. ()

13. Second-Half Cancelled. If the second-half Twin Trifecta contest is cancelled or declared “no contest,” all exchange tickets and outstanding first-half winning Twin Trifecta tickets will be entitled to the net Twin Trifecta pool for that contest as a single price pool, but not Twin Trifecta carryover. If there are no such tickets, the net Twin Trifecta pool must be distributed as described in Subsection 843.05 of these rules. ()

14. Capped Carryover. The Twin Trifecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Twin Trifecta carryover equals or exceeds the designated cap, the Twin Trifecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the Twin Trifecta carryover is frozen, one hundred percent (100%) of the net Twin Trifecta pool for each individual contest must be distributed to winners of the first-half of the Twin Trifecta pool. ()

15. Request to Distribute Carryover. A written request for permission to distribute the Twin Trifecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. ()

16. Winning Precedence. Should the Twin Trifecta carryover be designated for distribution on a specific date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Trifecta after completion of the first-half of the Twin Trifecta: ()

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in the correct sequence, the first two (2) betting interests; but if there are no such wagers, then; ()

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; ()

d. As a single price pool to holders of valid exchange tickets. ()

e. As a single price pool to holders of outstanding first-half winning tickets. ()

17. Exchange of Tickets. Contrary to Subsection 843.04 of these rules, during a performance designated to distribute the Twin Trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interest. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Trifecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day’s net Twin Trifecta pool and any existing Twin Trifecta carryover. ()

18. Carryover Designation. The Twin Trifecta carryover must be designated for distribution on a specified date and performance only under the following circumstances: ()

a. Upon written approval from the Racing Commission as provided in Subsection 843.15 of these rules. ()

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Twin Trifecta is discontinued. ()

c. On the closing performance of the meet or split meet ()

19. Carryover from Past Subsequent Meet. If, for any reason, the Twin Trifecta carryover must be held over to the corresponding Twin Trifecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Twin Trifecta carryover plus accrued interest will then be added to the second-half Twin Trifecta pool of the following meet on a date and performance so designated by the Racing Commission. ()

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data. ()

21. Contest Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Twin Trifecta contests, the percentage of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Trifecta format require prior approval from the Racing Commission. ()

844. TRI-SUPERFECTA POOLS.

01. Tri-Superfecta Pools. The Tri-Superfecta requires selection of the first three (3) finishers, in their exact order, in the first two (2) designated contests and the first four (4) finishers, in exact order, in the second of the two (2) designated contests. Each winning ticket for the first Tri-Superfecta contest must be exchanged for a free ticket on the second Tri-Superfecta contest in order to remain eligible for the second-half Tri-Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Tri-Superfecta contest. Winning first-half Tri-Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Tri-Superfecta contests will be included in only one (1) Tri-Superfecta pool. ()

02. Providing Pools. After wagering closes for the first-half of the Tri-Superfecta and commissions have been deducted from the pool, the net pool will then be divided into two (2) separate pools: the first-half Tri-Superfecta pool and the second-half Tri-Superfecta pool. ()

03. Winning Precedence. In the first Tri-Superfecta contest only, winning tickets must be determined using the following precedence, based upon the official order of finish for the first Tri-Superfecta contest: ()

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; ()

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; ()

d. The entire Tri-Superfecta pool must be refunded on Tri-Superfecta wagers for that contest and the second-half cancelled. ()

04. Carryover Pool. If no first-half Tri-Superfecta ticket selects the first three (3) finishers of that

contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Tri-Superfecta pool. In such case, the second-half Tri-Superfecta pool must be retained and added to any existing Tri-Superfecta carryover pool. ()

05. Exchange of Tickets. Winning tickets from the first-half of the Tri-Superfecta will be exchanged for tickets selecting the first four (4) finishers of the second-half of the Tri-Superfecta. The second-half Tri-Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Tri-Superfecta contest: ()

a. As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such tickets, then; ()

b. The entire second-half Tri-Superfecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Tri-Superfecta pool of the next performance. ()

06. Forfeiture of Rights. If a winning first-half Tri-Superfecta ticket is not presented for cashing and exchange prior to the second-half Tri-Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Tri-Superfecta pool but forfeits all rights to any distribution of the second-half Tri-Superfecta pool. ()

07. Coupled Entries and Mutuel Field. Coupled entries and mutuel fields are prohibited in Tri-Superfecta contests. ()

08. Scratched Interest. Should a betting interest in the first-half of the Tri-Superfecta be scratched, those Tri-Superfecta tickets including the scratched betting interest must be refunded. ()

09. Second-Half Betting Interest Scratch. Should a betting interest in the second-half of the Tri-Superfecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Tri-Superfecta contest, the ticket holder forfeits all rights to the second-half Tri-Superfecta pool. ()

10. Reduced Interests. If, due to a late scratch, the number of betting interests in the second-half of the Tri-Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets will be entitled to the second-half Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover. ()

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first- or second-half of the Tri-Superfecta, all Tri-Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In the case of a dead heat occurring in: ()

a. The first-half of the Tri-Superfecta, the payoff is calculated as a profit split. ()

b. The second-half of the Tri-Superfecta, the payoff is calculated as a single price pool. ()

12. Cancelled Contest. If either of the Tri-Superfecta contests are cancelled prior to the first Tri-Superfecta contest, or the first Tri-Superfecta contest is declared “no contest,” the entire Tri-Superfecta pool must be refunded on Tri-Superfecta wagers for that contest and the second-half cancelled. ()

13. Second-Half Cancelled. If the second-half Tri-Superfecta contest is cancelled or declared “no contest,” all exchange tickets and outstanding first-half winning Tri-Superfecta tickets will be entitled to the net Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover. If there are no such tickets, the net Tri-Superfecta pool must be distributed as described in Subsection 844.03 of these rules. ()

14. Capped Carryover. The Tri-Superfecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Tri-Superfecta carryover equals or exceeds the designated cap, the Tri-Superfecta carryover will be frozen until it is won or distributed under

other provisions of this rule. After the second-half Tri-Superfecta carryover is frozen, one hundred percent (100%) of the net Tri-Superfecta pool for each individual contest will be distributed to winners of the first-half of the Tri-Superfecta pool. ()

15. Request to Distribute Carryover. A written request for permission to distribute the Tri-Superfecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefits to be derived, and the intended date and performance for the distribution. ()

16. Winning Precedence. Should the Tri-Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Tri-Superfecta after completion of the first-half of the Tri-Superfecta: ()

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; ()

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; ()

d. As a single price pool to those whose combination included, in correct sequence, the first-place betting interest only; but if there are no such wagers, then; ()

e. As a single price pool to holders of valid exchange tickets. ()

f. As a single price pool to holders of outstanding first-half winning tickets. ()

17. Exchange of Tickets. Contrary to Subsection 844.04 these rules, during a performance designated to distribute the Tri-Superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Tri-Superfecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Tri-Superfecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Tri-Superfecta pool and any existing Tri-Superfecta carryover as a single price pool. ()

18. Carryover Designation. The Tri-Superfecta carryover may be designated for distribution on a specified date and performance only under the following circumstances: ()

a. Upon written approval from the Racing Commission as provided in Subsection 844.15 of these rules. ()

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Tri-Superfecta is discontinued. ()

c. On the closing performance of the meet or split meet. ()

19. Carryover from Past Subsequent Meet. If, for any reason, the Tri-Superfecta carryover must be held over to the corresponding Tri-Superfecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Tri-Superfecta carryover plus accrued interest will then be added to the second-half Tri-Superfecta pool of the following meet on a date and performance so designated by the Racing Commission. ()

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data. ()

21. Contest Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Tri-Superfecta contest, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Tri-Superfecta format requires prior approval from the Racing Commission. ()

845. TWIN SUPERFECTA POOLS.

01. Twin Superfecta Pools. The Twin Superfecta requires selection of the first four (4) finishers, in their exact order, in each of two (2) designated contests. Each winning ticket for the first Twin Superfecta contest must be exchanged for a free ticket on the second Twin Superfecta contest in order to remain eligible for the second-half Twin Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Superfecta contest. Winning first-half Twin Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Twin Superfecta contests will be included in only one (1) Twin Superfecta pool. ()

02. Dividing Pools. After wagering closes for the first-half of the Twin Superfecta and commissions have been deducted from the pool, the net pool must then be divided into two (2) separate pools: the first-half Twin Superfecta pool and the second-half Twin Superfecta pool. ()

03. Winning Precedence. In the first Twin Superfecta contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Superfecta contest: ()

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; ()

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; ()

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; ()

e. The entire Twin Superfecta pool must be refunded on Twin Superfecta wagers for that contest and the second-half cancelled. ()

04. Carryover Pool – First Race. If no first-half Twin Superfecta ticket selects the first four (4) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Twin Superfecta pool. In such case, the second-half Twin Superfecta pool will be retained and added to any existing Twin Superfecta carryover pool. ()

05. Winning Distribution. Winning tickets from the first-half of the Twin Superfecta will be exchanged for tickets selecting the first four (4) finishers of the second-half of the Twin Superfecta. The second-half Twin Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Superfecta contest: ()

a. As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such tickets, then; ()

b. The entire second-half Twin Trifecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Twin Superfecta pool of the next performance. ()

06. Forfeiture of Second-Half Rights. If a winning first-half Twin Superfecta ticket is not presented for cashing and exchange prior to the second-half Twin Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Superfecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool. ()

07. Prohibited Entries. Coupled entries and mutuel fields are prohibited in Twin Superfecta contests. ()

08. Scratched First-Half Interest. Should a betting interest in the first-half of the Twin Superfecta be scratched, those Twin Superfecta tickets including the scratched betting interest must be refunded. ()

09. Scratched Second-Half Interest. Should a betting interest in the second-half of the Twin Superfecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Superfecta contest, the ticket holder forfeits all rights to the second-half Twin Superfecta pool. ()

10. Late Scratch. If, due to a late scratch, the number of betting interests in the second-half of the Twin Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets will be entitled to the second-half Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover. ()

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first- or second-half of the Twin Superfecta, all Twin Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In the case of a dead heat occurring in: ()

a. The first-half of the Twin Superfecta, the payoff is calculated as a profit split. ()

b. The second-half of the Twin Superfecta, the payoff is calculated as a single price pool. ()

12. Canceled Contest. If either of the Twin Superfecta contests are cancelled prior to the first Twin Superfecta contest, or the first Twin Superfecta contest is declared “no contest,” the entire Twin Superfecta pool must be refunded on Twin Superfecta wagers for that contest and the second-half cancelled. ()

13. Canceled Second-Half Contest. If the second-half Twin Superfecta contest is cancelled or declared “no contest,” all exchange tickets and outstanding first-half winning Twin Superfecta tickets will be entitled to the net Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover. If there are no such tickets, the net Twin Superfecta pool must be distributed as described in Subsection 845.03 of these rules. ()

14. Capped Carryover. The Twin Superfecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Twin Superfecta carryover equals or exceeds the designated cap, the Twin Superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half Twin Superfecta carryover is frozen, one hundred percent (100%) of the net Twin Superfecta pool for each individual contest will be distributed to winners of the first-half of the Twin Superfecta pool. ()

15. Request for Carryover. A written request for permission to distribute the Twin Superfecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. ()

16. Winning Precedence. Should the Twin Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Superfecta: ()

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; ()

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; ()

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; ()

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; ()

e. As a single price pool to holders of valid exchange tickets. ()

f. As a single price pool to holders of outstanding first-half winning tickets. ()

17. Exchange Ticket Distribution. Contrary to Subsection 845.04 of these rules, during a performance designated to distribute the Twin Superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Superfecta. If there are no wagers correctly selecting the first-, second-, third-, and fourth-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-, second-, and third-place betting interests. If there are no wagers correctly selecting the first-, second- and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Superfecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Twin Superfecta pool and any existing Twin Superfecta carryover as a single price pool. ()

18. Carryover Distribution. The Twin Superfecta carryover must be designated for distribution on a specified date and performance only under the following circumstances: ()

a. Upon written approval from the Racing Commission as provided in Subsection 845.15 of these rules. ()

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Twin Superfecta is discontinued. ()

c. On the closing performance of the meet or split meet. ()

19. Carryover Held. If, for any reason, the Twin Superfecta carryover must be held over to the corresponding Twin Superfecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Twin Superfecta carryover plus accrued interest will then be added to the second-half Twin Superfecta pool of the following meet on a date and performance so designated by the Racing Commission. ()

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data. ()

21. Written Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Twin Superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Superfecta format require prior approval from the Racing Commission. ()

846. -- 899. (RESERVED)

SUB AREA C2: SIMULCASTING
(Sections 900-949)

900. REQUIREMENTS FOR LICENSURE OF A SIMULCAST FACILITY.

01. General. Any racing association or simulcast operator authorized under these rules to conduct pari-mutuel wagering who desires to display the simulcast of pari-mutuel events on which pari-mutuel betting will be permitted, in the manner and subject to the conditions provided for under these rules, may apply to the Racing Commission for a license. ()

02. Application for License. The application for a license must be in such form as may be prescribed by the Racing Commission and contain such information or other material or evidence as the Racing Commission may require. ()

03. Daily Simulcast License Fee. The fee for such license is based upon the weekly handle. ()

a. If the handle is greater than thirty thousand dollars (\$30,000), the fee will be one hundred dollars (\$100) per day of simulcast operation payable by the licensee to the Racing Commission. Seventy-five dollars (\$75) of this fee will be paid to the Idaho State Racing Commission and twenty-five (\$25) will be deposited in the Public School Income Fund. ()

b. If the weekly handle is at least fifteen thousand dollars (\$15,000), but less than thirty thousand dollars (\$30,000), the fee will be fifty dollars (\$50) per day of simulcast operation payable by the licensee to the Racing Commission. Twenty-five dollars (\$25) of this fee will be deposited in the Public School Income Fund and twenty-five dollars (\$25) will be paid to the Idaho State Racing Commission. ()

c. If the weekly handle is less than fifteen thousand dollars (\$15,000), the fee will be twenty-five dollars (\$25) which will be deposited in the Public School Income Fund. ()

04. Review and Approve. Before the Racing Commission grants such license, it will review and approve a plan of operation submitted with a license application including, but not limited to, the following information: ()

a. A feasibility study denoting the revenue earnings expected from the simulcast facility and the costs expected to operate such a facility. The feasibility study includes: ()

i. The number of simulcast races to be displayed; ()

ii. The types of wagering to be offered; ()

iii. The level of attendance expected and the area from which such attendance will be drawn; ()

iv. The level of anticipated wagering activity; ()

v. The source and amount of revenues expected from other than pari-mutuel wagering; ()

vi. The cost of operating the simulcast facility and the identification of costs to be amortized and the method of amortization of such costs; and ()

vii. The probable impact of the proposed operation on revenues to local government. ()

b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of wagering data to effectuate common wagering pools. ()

c. The type of data processing, communication and transmission equipment to be utilized. ()

- d. The description of the management groups responsible for the operation of the simulcast facility. ()
- e. The system of accounts to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues and the accounting of costs relative to the simulcast operation. ()
- f. The location of the facility and a written confirmation from appropriate local officials that the location of such facility and the number of patrons expected to occupy such facility are in compliance with all applicable local ordinances, along with approval by appropriate county or city officials. ()

901. CRITERIA FOR APPROVAL OF APPLICATION FOR SIMULCAST OPERATOR.

The Racing Commission uses the following decisional criteria in the approval or disapproval of an application for simulcast operator. ()

- 01. **General Benefit to the State.** The operator’s general benefit to the state of Idaho. ()
- 02. **General Benefit to Horse Racing Industry.** The operator’s general benefit to the state of Idaho’s horse racing industry. ()
- 03. **Operator’s Integrity.** The operator’s integrity, including: ()
 - a. Individual and corporate conduct; ()
 - b. Criminal history; and ()
 - c. Betting and gaming industry conduct. ()
- 04. **Operator’s Credibility.** The operator’s credibility, including: ()
 - a. Accuracy of a feasibility study; and ()
 - b. Experience and expertise of the operator in the simulcast industry. ()
- 05. **Financial Stability.** The operator’s financial stability. ()

902. HOST ASSOCIATION.

01. **Contract.** Subject to Racing Commission approval of a simulcast contract, a host association licensed by the Racing Commission may simulcast its horse races to intrastate, interstate and out-of-state authorized users for the purpose of pari-mutuel wagering. ()

02. **Content.** A racing association is responsible for the content of its simulcast and needs to use all reasonable effort to present a simulcast that offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events. ()

03. **Video.** Unless otherwise permitted by the Racing Commission, every simulcast needs to contain in its video content a digital display of the actual time of day, the name of the host facility from where it emanates, the number of the horse race being displayed, and the minutes to post. ()

04. **Security Controls.** As a condition of contract approval, or when deemed necessary by the Racing Commission, the host association may need to provide and maintain security controls, including encryption over its uplink and communications systems. ()

903. GUEST ASSOCIATIONS.

01. **Contract Approval.** Guest racing associations that are licensed by the Racing Commission and subject to contract approval by the Racing Commission may receive simulcast races for the purpose of pari-mutuel

wagering from one (1) or more host associations. ()

02. Plan for Testing. A plan that is subject to approval by the Racing Commission must be submitted by a guest racing association for testing the transmission, encryption and decoding, and data communication to assure proper system function prior to the commencement of each simulcast program or race from a host association. ()

904. -- 909. (RESERVED)

910. INTERSTATE COMMON POOL WAGERING.

Subject to contract approval by the Racing Commission, a racing association may participate in common pool wagering by accepting wagers placed in other jurisdictions or by offering wagers on races run in other jurisdictions. Contract approval requirements include, but may not be limited to, the following: ()

01. Licensing Requirement. A contract to participate in interstate common pool wagering must include evidence that the authorized user in the other jurisdiction is licensed or otherwise authorized or approved by the pari-mutuel authority or equivalent in that jurisdiction. ()

02. Pari-Mutuel Systems Requirement. A contract to participate in interstate common pool wagering must: ()

a. Include evidence that the authorized user in the other jurisdiction utilizes a pari-mutuel wagering system fully compliant with requirements for totalizator systems used by licensed racing associations in Idaho; ()

b. Specify the regulatory authority responsible for granting a license to the racing association serving as host for purposes of aggregation of common pool wagering; ()

c. Specify the name and location of the racing association that is the host for the common pool, and the individuals and contact information for matters relating to the contract and common pool wagering; and ()

d. Specify the name of the totalizator company, location of the totalizator facility utilized to receive wagers and aggregate pools for the purpose of common pool wagering and the individuals and contact information for matters relating to the contract and common pool wagering. ()

03. Access to Reports and Wagering Information Requirement. A contract to participate in interstate common pool wagering must include evidence that the authorized user in the other jurisdiction will provide full and prompt access to, and cooperation in providing, all reports and information that may be requested by the Racing Commission. This includes wagering transaction data in either a hard copy report or a standard electronic data format acceptable to the Racing Commission. Such requirement apply to all wagering on races run in Idaho and all wagering pools that accept wagers placed from Idaho. ()

04. Breakage. The contract must include provisions specifying the distribution of breakage consistent with the requirement for wagers placed in Idaho. ()

911. NET POOL PRICING.

01. Takeout Rates. If takeout rates are not the same for all jurisdictions and net pool pricing is utilized, the contract must specify net pool pricing. ()

a. Individual wagering transactions are deemed to be made at the point of sale in the state where placed unless otherwise specified by statute or court ruling. ()

b. Any surcharges or withholdings in addition to the takeout may only be applied in the jurisdiction otherwise imposing such surcharges or withholdings. ()

c. In determining whether to approve an interstate common pool which does not include the host track

or which includes races from more than one racing association, the Racing Commission will consider and may approve use of a bet type which is not utilized at the host association, application of a takeout rate not in effect at the live event track, or other factors which are presented to the Racing Commission. ()

d. The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules. ()

02. Guest Participation in Interstate Common Pools. ()

a. The Racing Commission may approve a takeout from the pari-mutuel pools identical to that of other jurisdictions participating in a merged pool. ()

b. Rules, Live as established in the host state will apply to the merged pool. ()

c. The simulcast operator must designate which one of the following procedures it will use if it becomes impossible to successfully merge the corresponding pools into the interstate common pool, and publish their designated procedure in the printed program: ()

i. Compute payouts in accordance with payout prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; or ()

ii. With permission of the Racing Commission, pay winning tickets at the payout prices at the host track; or ()

iii. Declare such accepted bets void and make refunds in accordance with the applicable rules. ()

912. HOST PARTICIPATING IN INTERSTATE COMMON POOLS.

01. Rules of Racing Established. Rules of racing established for races held in Idaho will also apply to interstate common pools unless the Racing Commission has specifically determined otherwise. ()

02. When Impossible to Merge Pools. Any contract for interstate common pools must contain a provision that states that if, for any reason, it becomes impossible to successfully accept placed wagers or to merge corresponding pools into the interstate common pool formed by the pari-mutuel pool host and the Racing Commission's or the pari-mutuel pool host's representative determines that accepting wagers or attempting to effect transfer of pool data from the guest association may endanger the integrity of the pool or the timely processing of payouts, the pari-mutuel pool host will have no liability for guest's wagers or corresponding pools not being accepted into the host pool. ()

913. LICENSES FOR SIMULCAST OPERATORS.

01. License. Every person acting as a simulcast operator within Idaho must procure a license from the Racing Commission and no person will act in the capacity of a simulcast operator without a valid license. Such license may be renewed annually unless the application is denied for any cause that justifies the suspension or revocation of the license for violation of these rules. ()

02. Responsibilities of Applicant. Each applicant must: ()

a. Submit a financial statement as required by the Idaho State Racing Commission; ()

b. Post with the Racing Commission a surety, in the amount and in such form as the Racing Commission may require, that is sufficient to ensure payment of distributable amounts of pari-mutuel pools pursuant to statute, operational costs, salaries, wages, benefits, and related financial obligations; and ()

c. Demonstrate experience or adequate knowledge of the conduct of simulcast wagering or pari-mutuel wagering operations. ()

03. Simulcast License Application. The simulcast operator intending to conduct wagering on an out-of-state race must file with the Racing Commission a completed simulcast application. The application will be provided and approved by the Racing Commission. At a minimum the application will require the applicant to provide the following information: ()

a. The number of live races projected in the current year; ()

b. The number of live races run in the preceding year; ()

c. Documentation that the required bond has been posted; ()

d. Documentation that the appropriate public liability insurance has been obtained; ()

e. Evidence of approval from the appropriate county or city officials; ()

f. A signed contract from a local horsemen’s group. The horsemen’s group must be one that meets the definition of a horsemen’s group as defined in Section 54-2502, Idaho Code. The contract cannot conflict with any of the provisions of Sections 3001 through 3007 of Title 15 of the United States Code or any other federal laws; ()

g. A statement setting forth the date and time it intends to commence accepting wagers on out-of-state race or races; and ()

h. Any other written or oral approvals required by the Racing Commission. ()

04. Restrictions. ()

a. No license will be granted to any person or entity that has failed, refused or neglected to comply with any rule, condition of license, or order of the Racing Commission or its Board of Stewards that is reasonably related to its conduct as a simulcast operator. ()

b. No license will be granted to any person or entity that has engaged in any activity that is grounds for denial, suspension or revocation of license pursuant to the rules of the Racing Commission or whose general partners, officers, directors, or employees have engaged in any unlawful activity determined to be conduct detrimental to the best interest of horseracing. ()

c. Additionally, no license will be granted to a person or entity that has failed, refused or neglected to enter into an agreement with a horsemen’s group as defined in Section 54-2502, Idaho Code. ()

05. No Limitation. There will be no limitation as to the number of days a licensee may operate except as may otherwise be provided for within these rules or the Idaho Code. ()

914. SIMULCAST PURSE MONEY COLLECTION AND DISTRIBUTION.

01. Designated Purse Monies. Each simulcast operator licensed by the Racing Commission must remit to the Racing Commission those monies designated by the horsemen’s agreement as purse monies. Payment must be made on a timely basis as provided in said agreement which will in no event be greater than thirty (30) days after accrual to the simulcast facility. ()

02. Dual Signature Insured Account. Each horsemen’s group signatory to a horsemen’s agreement authorizing simulcasting must open and maintain a dual signature insured account, hereinafter called a “purse accumulation account.” ()

03. Deposit into Appropriate Account. Prior to commencement of the live race meet, the Racing Commission will annually deposit into the appropriate purse accumulation account those funds paid to the Racing Commission by the respective simulcast operator(s). The Racing Commission has the authority to approve more

frequent payments, if requested by said horseman's group. ()

04. Sanctions. In addition to all available sanctions, any person or licensee who receives monies designated as purse monies as described in these rules, and who violates these rules, can be ordered to pay a monetary penalty as set forth in Section 54-2509(4), Idaho Code, and daily interest accrued thereupon at the rate set by the Idaho State Treasurer. ()

915. -- 929. (RESERVED)

930. DUTIES OF SIMULCAST OPERATOR.

01. General. A simulcast operator conducts and operates a pari-mutuel wagering system at one (1) or more guest associations on the results of horse races being held or conducted and simulcast from the enclosures of one (1) or more host associations pursuant to its agreement with such guest and host association and with the approval of the Racing Commission. ()

02. Provisions. A simulcast operator must provide: ()

a. Adequate transmitting or receiving equipment that does not interfere with the closed circuit TV system of the host association. All equipment must be of acceptable broadcast quality and meet applicable Federal Communications Commission and Racing Commission rules and orders. Said equipment may include approved microwave transmitters, with appropriate safeguards, as approved by the Racing Commission. ()

b. Pari-mutuel terminals, pari-mutuel odds display, modems or switching units enabling pari-mutuel data transmissions, and data communication between the sending and the receiving racing associations. ()

03. Pari-Mutuel Inspector. The Racing Commission will appoint at least one (1) state pari-mutuel inspector to monitor all approved simulcast facilities and may require additional pari-mutuel inspectors as is reasonably necessary for the protection of the public interest. The state pari-mutuel inspector, as well as a member or members of the Racing Commission, must: ()

a. Be given free access to all of the books, papers and records of the simulcast operator's simulcast operations during normal business hours. ()

b. Be empowered to direct the simulcast operator to adopt such rules and to install such methods and systems of operating the mutuel department as may be deemed reasonably necessary so as to ensure compliance with the law and the rules of the Racing Commission. ()

c. The state pari-mutuel inspector must report to the Racing Commission any failure of the licensee to comply with the provision hereof or any violation of the law or any of the rules of the Racing Commission which may come to his attention, including in his reports, recommendations with respect to the revocation of the licenses of any employee of the simulcast operator for failure to comply with the rules of the Racing Commission, or for fraud, dishonesty, or incompetency. ()

04. Video Record. Upon the request of the Racing Commission the simulcast operator must make its best effort to provide the Racing Commission with a copy of the simulcast race requested. ()

05. Test Program. Not less than thirty (30) minutes prior to the commencement of transmission of the racing program for each day or night, the simulcast operator must initiate a test program of its transmitter, encryption and decoding, and data communication to assure proper operation of the system. ()

06. Locations Listing. At the request of any representative of the Racing Commission the Racing Association must provide a listing of all locations within this state enabled to receive the simulcast in decoded forms. Failure to do so is grounds for immediate summary suspension of license and immediate cessation of simulcasting activities. ()

07. Security. The Racing Association must maintain such security controls over its uplink and

communications system as directed by the Racing Commission. ()

08. Filing. Every simulcast operator at the request of the Racing Commission must file an annual report of its simulcast operations, and an audited balance sheet and income statement prepared according to Generally Accepted Accounting Principles. ()

09. Compliance. The simulcast operator must comply with Section 54-2512, Idaho Code. ()

931. PROHIBITION OF SIMULCAST SIGNAL.

Pertaining to the simulcasting of greyhound racing, should substantial, competent evidence of cruelty to or misconduct in the treatment of greyhounds occur at a site under the jurisdiction of another state regulatory agency, the Racing Commission will prohibit the retransmission of any and all simulcast signals until appropriate action has been taken by the other state regulatory agency. ()

932. CONFLICT OF LAWS.

In the event of a conflict between the laws of the host track and the laws or rules of the state of Idaho, the laws or rules of the state of Idaho will apply. ()

933. TOTALIZATOR OR OTHER APPROVED EQUIPMENT.

Pari-mutuel wagering on live horse races may only be conducted through the use of a totalizator or other similar mechanical equipment approved by the Commission. ()

934. -- 949. (RESERVED)

SUB AREA C3: ADVANCED DEPOSIT WAGERING
(Sections 950-999)

950. LICENSING FOR ADVANCED DEPOSIT WAGERING.

No person may conduct advanced deposit wagering activities within Idaho prior to receiving an advance deposit wagering license from the Racing Commission. ()

951. ADVANCED DEPOSIT WAGERING LICENSE.

Any person may request a license from the Racing Commission to conduct advanced deposit wagering in accordance with Section 54-2512(5), Idaho Code, and these rules. As part of the request, such person must submit a detailed plan of how its proposed advance deposit wagering system would operate. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. ()

952. ADVANCE DEPOSIT WAGERING LICENSE APPLICATION.

An applicant for an advance deposit wagering operator license must provide the following information as part of the application: ()

01. Legal Name. The legal name of the person seeking the license. ()

02. Corporation. If the person seeking a license is a corporation: the names, addresses of all directors and officers, the date of incorporation and the place of incorporation;. ()

03. Partnership. If the person seeking a license is a partnership: the names, addresses of all partners. If a partner is a corporation the date of incorporation, the place of incorporation and the names and addresses of all directors and officers. ()

04. Race Tracks. The names of the race tracks the advance deposit wagering operator has contracts with that allow the applicant to provide wagering on the product. ()

05. Financial Information. Financial information that demonstrates the financial resources to operate. ()

06. Budget. A detailed budget showing anticipated revenue, expenditures and cash flows by month during the license period. ()

07. Number of Days. The number of days of planned operation during the fiscal year in which they are seeking to be licensed. ()

953. DETAILED PLAN OF OPERATION FOR ADVANCED DEPOSIT WAGERING.

01. Detailed Plan of Operation. The detailed plan of operation for an advanced deposit wagering license must include, but is not limited to, the following information: ()

a. The manner in which the wagering system will operate; ()

b. Programs for responsible wagering; and ()

c. Mitigation for the effects of advance deposit wagering on the source market in which the account holder resides. ()

02. Requirements for Accounts Established and Operated for Persons Whose Principal Residence is Outside of the State of Idaho. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a license. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. ()

954. INVESTIGATIONS OR INSPECTIONS.

The Racing Commission may conduct investigations and inspections and request additional information from the advanced deposit wagerer as it deems appropriate. ()

955. -- 959. (RESERVED)

960. CLAIMS OF NON-PAYMENT.

01. Claim of Non-Payment. An account holder, who is claiming that non-payment has occurred, must make a claim of non-payment to the Racing Commission. ()

02. Investigation of Claim. The Racing Commission will investigate the claim and provide the advance deposit wagering operator with an opportunity to respond thereto and submit any supporting documents or evidence it needs to defend the claim. ()

03. Commission Determination. If the Racing Commission determines that the account holder is entitled to restitution, the advance deposit wagering operator has ten (10) days to pay the amount determined by the Racing Commission. ()

961. PROMOTE AND ADVERTISE.

An applicant licensed under these rules may enter into such agreements, for what it deems good and sufficient reasons, that are necessary to promote, advertise, and further the sport of racing, or that may be necessary for the effective operation of interstate account wagering, including, without limitation, television production and telecommunications services. Such agreements are reviewed by the Racing Commission and may be denied. ()

962. OUT-OF-STATE PROVIDERS.

Any advance deposit wagering by an account holder with a provider outside of the State by telephone or other electronic means is illegal, unless that provider is licensed by the Racing Commission and provides a source market fee of not less than ten percent (10%) of the handle forwarded monthly to the Racing Commission. ()

963. RESIDENCE OUTSIDE THE STATE OF IDAHO.

Requirements for the establishment and operation of accounts for individuals whose principle residence is outside of

the state of Idaho must be set forth in the operation plan as stated in these rules. ()

964. ESTABLISHING AN ADVANCED DEPOSIT WAGERING ACCOUNT.

01. Establishing an Advanced Deposit Wagering Account. The application for establishing an advanced deposit wagering account must be authorized in a manner acceptable to the Racing Commission and include the applicant's: ()

- a. Full legal name; ()
- b. Principal residence address; ()
- c. Telephone number of their permanent residence; ()
- d. Social security number; and ()
- e. Proper identification or certification demonstrating that the applicant is at least eighteen (18) years of age. ()

02. Other Information. As needed, any other information required by the Racing Commission or the advance deposit operator. ()

965. ACCOUNT INFORMATION.

Each application for an advance deposit wagering account may be subject to verification. ()

966. -- 969. (RESERVED)

970. IDENTIFYING AN ACCOUNT NUMBER.

Each account must have a unique identifying account number. The identifying account number may be changed at any time by the advance deposit wagering operator provided the advance deposit wagering operator informs the account holder in writing prior to the change. ()

01. Secure Personal Identification Code. The applicant must supply the advance deposit wagering operator with an alpha-numeric code to be used as a secure personal identification code when the account holder is placing an account wager. The account holder has the right to change this code at any time. ()

02. Principle Residence. The principal residence address will be established by reliance on the information submitted on the application form provided and certified by the applicant. ()

03. Upon Approval Account Holder Receives. The account holder will receive, at the time the account is approved: ()

- a. A unique account identification number; ()
- b. A copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account; and ()
- c. Such other information as the advance deposit wagering operator or Racing Commission may deem appropriate. ()

04. Name of Natural Persons. The advance deposit wagering operator will accept accounts in the name of a natural person only. ()

05. Nontransferable. The account is nontransferable between natural persons. ()

971. CLOSE OR REFUSE TO OPEN AN ACCOUNT.

The advance deposit wagering operator may close or refuse to open an account, for what it deems good and sufficient

reason, and will order an account closed if it is determined that information that was used to open an account was false, or that the account has been used in violation of these rules. ()

972. ACCOUNT HOLDER RESPONSIBILITIES.

01. Personal Use Only. Accounts are for the personal use of the account holder. ()

02. Security. The account holder is responsible for maintaining the secrecy of the account number and secure personal identification code. ()

03. Account Losses. Except where the advance deposit wagering center or its employees or agents act without good faith or fail to exercise ordinary care, the advance deposit wagering center is not be responsible for any loss arising from the use by any other person or persons of an account holder's account. ()

04. Notification of Account Security Breach. The account holder must immediately notify the advance deposit wagering center of a breach of the account's security. ()

973. OPERATION OF AN ACCOUNT.

01. Operator May Refuse Deposits. The advance deposit wagering operator may refuse deposits to an account for what it deems good and sufficient reason. ()

02. Operator May Suspend or Close Account. The advance deposit wagering operator may suspend or close any account at any time provided that within five (5) business days of closing the account the advance deposit wagering operator returns to the account holder all monies then on deposit by sending it to the principal residence address as listed on the application. ()

974. CREDITS TO AN ACCOUNT.

After the initial establishment of an account, credits to an account may be made as follows: ()

01. Deposits. Deposits to an account by an account holder must be made in the following forms: ()

a. Cash given to the staff of an advance deposit wagering operator; ()

b. Personal or cashier check, or money order given or sent to an advance deposit wagering operator; ()

c. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder. Such instructions may be given by telephone or any electronic device to the advance deposit wagering facility by the account holder if the use of the card has been approved by the advance deposit wagering operator; or ()

d. Transfer by means of an electronic funds transfer from a monetary account controlled by an account holder to his account. The account holder is liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account. ()

02. Credit for Winnings. Credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched will be posted to the account by the advance deposit wagering operator. ()

03. Accordance with Financial Institution. Checks, money orders and other negotiable instruments will be posted to the credit of the account holder in accordance with financial institution funds availability schedules. ()

975. DEBITS TO AN ACCOUNT.

- 01. Debits to an Account.** Debits to an account are made as follows: ()
- a.** Upon receipt by the advance deposit wagering operator of an account wager, the advance deposit wagering center debits the account in the amount of the wager; or ()
 - b.** For fees for service or other transaction-related charges by the advance deposit wagering operator. ()
- 02. Account Withdrawals.** An advance deposit wagering operator may authorize a withdrawal from an account when one (1) of the following exists: ()
- a.** The account holder of an account appears personally at the advance deposit wagering operators location and provides the following: ()
 - i.** Proper identification; ()
 - ii.** The correct secure personal identification code; and ()
 - iii.** A properly completed and signed withdrawal slip. ()
 - b.** The account holder sends to the advance deposit wagering operator a properly completed and signed withdrawal slip by any means, electronic or otherwise. ()
 - i.** Upon receipt of a properly completed and signed withdrawal slip, and if there are sufficient funds in the account to cover the withdrawal, the advance deposit wagering operator must, within five (5) business days of its receipt, send a check to the account holder. The check is payable to the holder of the account and in the amount of the requested withdrawal. ()
 - ii.** If funds are not sufficient to cover the withdrawal, the account holder will be notified in writing and those funds in the account will be withdrawn and sent to the account holder within the five (5) business day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the advance deposit wagering operator subject to the same conditions described for electronic funds transfer credits. ()
 - c.** The advance deposit wagering operator may close accounts in which there has been no activity for at least six (6) months, returning funds remaining therein to the account holder at his principal residence address. ()
 - d.** In the event an account holder is deceased, funds accrued in the account will be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations or other documents required by applicable laws. ()

976. -- 979. (RESERVED)

980. WAGERS IN EXCESS OF ACCOUNT BALANCE.

The advance deposit wagering operator will not accept wagers from an account holder in an amount in excess of the account balance. ()

981. ACCOUNTS WILL NOT BEAR ANY INTEREST.

Monies deposited with the advance deposit wagering operator for advance deposit wagering must not bear any interest to the account holder. ()

982. PAYMENTS ON WINNING PARI-MUTUEL WAGERS.

Payments on winning pari-mutuel wagers and credits for account wagers on entries which are scratched must be posted to the credit of the account holder as soon as practicable after the race is declared official. ()

983. MAILING ADDRESS.

The principal residence address, provided in writing by the account holder at the time of application, is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder is at the sole risk of the account holder. ()

984. POWERS OF THE RACING COMMISSION TO REVIEW AND AUDIT RECORDS.

The Racing Commission or its staff will be given access to all records and financial information of the advance deposit wagering operator for review and audit. The Racing Commission may require that the advance deposit wagering operator annually submit to the Racing Commission audited financial statements of the advance deposit wagering system. ()

985. CONFIDENTIAL INFORMATION.

No confidential information related to the placing of any wager or to the operation of the advance deposit wagering center may be divulged by any employee or agent of the advance deposit wagering center, except, as required by these rules, to the account holder or the Racing Commission, or as otherwise required by state or federal law or regulation or rules of the Racing Commission. ()

986. APPLICABLE LAWS, RULES, AND REGULATIONS.

All advance deposit wagering operators must adhere to all applicable state and federal laws, rules, and regulations. ()

987. -- 999. (RESERVED)

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.02 – RULES GOVERNING SIMULCASTING

DOCKET NO. 11-0402-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
(208) 884-7004

700 S Stratford Drive
Meridian ID 83642
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IDAPA 11.04.02 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.03 – RULES GOVERNING LICENSING AND FEES

DOCKET NO. 11-0403-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

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IDAPA 11.04.03 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.04 – RULES GOVERNING DISCIPLINARY HEARINGS AND APPEALS

DOCKET NO. 11-0404-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

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IDAPA 11.04.04 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.05 – RULES GOVERNING ADVANCED DEPOSIT WAGERING

DOCKET NO. 11-0405-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

Lt. Colonel Bill Gardiner
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(208) 884-7004

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IDAPA 11.04.05 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

**11.04.06 – RULES GOVERNING RACING OFFICIALS
DOCKET NO. 11-0406-2201 (ZBR CHAPTER REPEAL)
NOTICE OF RULEMAKING – PROPOSED RULE**

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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IDAPA 11.04.06 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.07 – RULES GOVERNING RACING ASSOCIATIONS

DOCKET NO. 11-0407-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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IDAPA 11.04.07 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.08 – RULES GOVERNING PARI-MUTUEL WAGERING

DOCKET NO. 11-0408-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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IDAPA 11.04.08 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.09 – RULES GOVERNING CLAIMING RACES

DOCKET NO. 11-0409-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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IDAPA 11.04.09 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.10 – RULES GOVERNING LIVE HORSE RACES

DOCKET NO. 11-0410-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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(208) 884-7004

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IDAPA 11.04.10 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

**11.04.11 – RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS,
BANNED SUBSTANCES AND DRUG TESTING OF HORSES**

DOCKET NO. 11-0411-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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IDAPA 11.04.11 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

11.04.13 – RULES GOVERNING THE IDAHO STATE RACING COMMISSION

DOCKET NO. 11-0413-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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IDAPA 11.04.13 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

**11.04.14 – RULES GOVERNING OWNERS, TRAINERS, AUTHORIZED AGENTS,
JOCKEYS, APPRENTICE JOCKEYS, AND JOCKEY AGENTS**

DOCKET NO. 11-0414-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

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IDAPA 11.04.14 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION**

**11.04.15 – RULES GOVERNING CONTROLLED SUBSTANCE AND ALCOHOL TESTING
OF LICENSEES AND APPLICANTS**

DOCKET NO. 11-0415-2201 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email Ardie.Noyes@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
(208) 884-7004

700 S Stratford Drive
Meridian ID 83642
Bill.Gardiner@isp.idaho.gov

IDAPA 11.04.15 IS BEING REPEALED IN ITS ENTIRETY

**IDAPA 11 – IDAHO STATE POLICE
IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM**

11.10.01 – RULES GOVERNING IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

DOCKET NO. 11-1001-2201 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 19, Chapter 52, Idaho Code, and Sections 19-5201 through 19-5204, Idaho Code.

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

Tuesday, October 25, 2022 1:00 p.m. to 2:00 p.m. MT
<i>In-person participation is available at:</i> Idaho State Police Headquarters 700 S Stratford Dr Meridian ID 83642

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 proposed rulemaking will provide additional funds to help support the Idaho ILETS System. The ILETS system is critical to law enforcement and public safety agencies across Idaho.

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

Percentage of Total ILETS Message Traffic	Annual Usage Fee Effective October 1, 2023
0 - .25 %	3,750
.26 - .50 %	7,500
.51 - .75 %	15,000
.76 - 1.0 %	24,000
1.01 - 1.50 %	32,500
1.51 – 2.0 %	48,750
2.01 – 5.0 %	69,625
> 5.01 %	98,939

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

There is no negative fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, informal negotiated rulemaking was conducted with stakeholders. A formal notice was not published, however; ISP consulted with stakeholders regarding the proposed changes earlier this year. Stakeholders and others who will be impacted are aware of the proposed changes. ISP has scheduled a public hearing that will be held during the comment period.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no documents incorporated by reference affected by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leila McNeill, Phone, 208-884-7136, Fax, 208-884-7193 Email, Leila.McNeill@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 30th day of August, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
700 S Stratford Dr
Meridian ID 83642
(208) 884-7004
Bill.Gardiner@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 11-1001-2201
(Only Those Sections With Amendments Are Shown.)

018. USER ACCESS FEES.

01. Payment of Fees Required. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the network must pay access and usage fees as provided in Section 018. (3-23-22)

02. ILETS Network User Access Fees. The access fees approved by the Board and to be collected quarterly in advance by the department are as follows: (3-23-22)

a. An agency at the county or municipal level pays an annual access fee of five thousand, four hundred and twenty-five dollars (\$5,425). (3-23-22)

b. An agency at the state, federal, or tribal level pays an annual access fee of nine thousand dollars (\$9,000). (3-23-22)

03. Usage Fee. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the ILETS network pays quarterly a usage fee based on that agency's percentage of total annual messages sent and received by user agencies through the ILETS message switcher. The total percentage for an agency includes the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access. (3-23-22)

a. The usage fee is assessed according to the following schedule:

Percentage of Total ILETS Message Traffic	Annual Usage Fee Effective October 1, 2014 2023
0 - .25 %	\$1,875 3,750
.26 - .50 %	\$3,750 7,500
.51 - .75 %	\$7,500 15,000
.76 - 1.0 %	\$15,000 24,000
1.01 - 1.50 %	\$22,500 32,500
1.51 – 2.0 %	\$33,750 48,750
2.01 – 5.0 %	\$50,625 69,625
> 5.01 %	\$75,939 98,939

(3-23-22)()

b. The department will conduct audits of ILETS message switcher traffic for even-numbered years to determine an agency’s annual usage fee. This fee is effective for two (2) years and begins with the quarterly statement beginning October 1 of odd-numbered years. (3-23-22)

c. If an agency discontinues direct terminal or system access to ILETS and acquires authorized access through another agency, the usage fee for the agency maintaining direct access will be adjusted to reflect the combined historical usage. (3-23-22)

d. A new agency approved for direct ILETS access that does not have historical usage will be assessed an interim usage fee by the department pending the next audit of ILETS message traffic. The department sets an interim fee based on the agency’s similarities to existing agencies with direct terminal or system access. An agency may appeal the interim usage fee set by the department to the ILETS Board. (3-23-22)

e. As operator of ILETS, the department, in lieu of payment of fees, provides direct and in-kind support of network operations. The Board reviews biennially the proportion of that support to the overall operating cost of the system. (3-23-22)

04. Billing and Payment. The department mails billing statements quarterly to all agencies with direct terminal or system access to ILETS. Payment of the fees is 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 payment is due on the first successive business day. (3-23-22)

05. Sanctions for Delinquency. Any user agency that becomes delinquent in payment of assessed fees is subject to sanctions under Section 028. (3-23-22)

IDAPA 11 – IDAHO STATE POLICE
11.10.03 – RULES GOVERNING THE SEX OFFENDER REGISTRY
DOCKET NO. 11-1003-2201
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 13, Chapter 83, Idaho Code, and Sections 18-8301 through 18-8331, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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 change is to reinstate a rule section required by 18-8305(2) Idaho Code which requires rules for expunging records of persons who are deceased.

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

There are no fees associated with this rule.

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:

No fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because no comments were received from stakeholders and no significant changes are being proposed.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no documents incorporated by reference affected by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leila McNeill, Phone, 208-884-7136, Fax, 208-884-7193 Email, Leila.McNeill@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 26th day of August, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
700 S Stratford Dr
Meridian ID 83642
(208) 884-7004
Bill.Gardiner@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1003-2201
(Only Those Sections With Amendments Are Shown.)

000. LEGAL AUTHORITY.

~~The Idaho State Police has authority to make rules to implement the sex offender central registry pursuant to~~ Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8331. ~~(3-23-22)~~()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

The terms defined in Section 67-3001, Idaho Code, ~~will have the same meaning in these rules. In addition, apply as~~ **do** the following terms ~~have the meanings set forth below:~~ (3-23-22)()

~~**01. Central Registry.** The state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code.~~ (3-23-22)

021. Substantially Equivalent. Any sex offense related crime, regardless of whether a felony or misdemeanor, that consists of similar elements defined in Title 18 of the Idaho Criminal Code. It does not mean exactly the same, nor exactly identical to. (3-23-22)

032. Working Days. Each day except Saturday, Sunday, or a legal state holiday. (3-23-22)

(BREAK IN CONTINUITY OF SECTIONS)

012. SEX OFFENDER CENTRAL REGISTRY -- ADMINISTRATION.

01. Central Registry Established. ~~Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in +~~ The bureau of criminal identification. ~~The bureau~~ is responsible for administration of the central registry pursuant to the requirements ~~set forth~~ in Title 18, Chapters 83 and 84, Idaho Code and these rules. (3-23-22)()

02. Forms. The following forms and procedures will be used to provide notice to and collect information from persons required to register as a sex offender ~~pursuant to Title 18, Chapters 83 and 84, Idaho Code.~~ (3-23-22)()

a. “Idaho Sex Offender Registry Form-:” ~~This three (3) page form~~ notifies an offender of register requirements and collects from an offender information required for registration or any change of address or status, as required by statute. (3-23-22)()

b. “Idaho Sex Offender Registry Homeless - Location Verification Form-:” ~~This one (1) page form~~ is used during ~~weekly~~ **bi-weekly** reporting to collect from an offender the information required when the offender does not provide a physical address at the time of registration. (3-23-22)()

03. Photographs and Fingerprints. (3-23-22)

a. An offender’s photograph will be in color. The sheriff will forward a copy of the photograph with tagging information so it may easily be located by registry staff in the department of transportation photo database. Photographs submitted to the central registry will be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff will pay to the state the cost of photography materials

lawfully required by a state agency or department. (3-23-22)

b. The sheriff will also submit the required fingerprints and palmprints for each registrant, in a manner prescribed by the department, either by manual card or electronic submission each registration. (3-23-22)

04. Notification to Local Law Enforcement. Lists of all offenders registered within a county are available on the sex offender registry web site. The bureau will notify the appropriate county law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or change of residence of a registered sex offender; and of a registered offender's intent to reside in an agency's jurisdiction. (3-23-22)

05. Notification to Other Jurisdictions. Within one (1) working day of receiving notification that a registered sex offender is moving to another jurisdiction, the bureau will notify the receiving jurisdiction's designated sex offender registration agency of the move by mail or electronic means. (3-23-22)

06. Expungement of Central Registry Information. (3-23-22)

a. Upon receipt of a certified copy of a death certificate or official government documentation recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. ()

b. Upon receipt of a duly attested copy of a pardon issued by the governor or official pardoning body of the jurisdiction where the conviction was entered and then reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (3-23-22) ()

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed by the court of conviction, the bureau will expunge all records concerning the conviction from the central registry, provided that the person has no other conviction requiring registration. (3-23-22)

d. Expungement of a record will not occur in cases where a court has ordered a dismissal for a withheld judgment. (3-23-22)

e. Pursuant to Section 18-8310(5), Idaho Code, if a person is exempted from the registration requirement by court order, the bureau will expunge all records and references concerning the offender from the central registry. (3-23-22)

f. "Any periods of supervised release, probation, or parole" in Section 18-8310(1)(a), Idaho Code, means those periods resulting from the underlying conviction requiring registration. ()

07. Determination of Substantially Equivalent or Similar Crime. (3-23-22)

a. A person convicted of a sex offense in another jurisdiction and who moves to, works in, or becomes a student in Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. (3-23-22)

b. The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. (3-23-22)

c. The bureau may make all substantially equivalent determinations using the police report (of the incident related to the sex offense), indictment or information or other lawful charging document, judgment or order (of sex offense conviction), psychosexual evaluation report, and order of probation. (3-23-22)

d. If a person seeks a substantially equivalent determination by the bureau before moving to, working in, or becoming a student in Idaho, that person shall provide a completed application and attach certified copies of all above-named documents to the bureau. (3-23-22)

- e. The bureau shall issue a substantially equivalent determination within sixty (60) days upon receipt of a completed application and the required documents. (3-23-22)
- f. The bureau's determination is a declaratory ruling as defined by Chapter 52, Title 67, Idaho Code. (3-23-22)
- g. Judicial review of the bureau's determination will be made in accordance with Chapter 52, Title 67, Idaho Code. (3-23-22)

**IDAPA 11 – IDAHO STATE POLICE
PEACE OFFICER STANDARDS AND TRAINING COUNCIL**

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

DOCKET NO. 11-1101-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

When adding mandatory topic training for Patrol certified officers as approved by the Council, the in-service training requirement for certified Detention officers was inadvertently deleted. This change adds the in-service training requirement for certified Detention officers back to the rule, as under previous versions.

Secondly, the charts added to the rule addressing qualifying experience for advanced certifications for Misdemeanor Probation Officers incorrectly allow for any Law Enforcement experience rather than Misdemeanor Probation experience. This change corrects that to require Misdemeanor Probation experience as qualifying for advanced certifications.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was not published due to the simple nature of the rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact POST Division Administrator, Brad Johnson, via phone (208) 884-7251, fax (208) 884-7295, or email brad.johnson@POST.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 21st day of September, 2022.

Lt. Colonel Bill Gardiner
Chief of Staff
Idaho State Police
700 S. Stratford Dr.
Meridian, Idaho 83642
(208) 884-7004
Bill.Gardiner@isp.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1101-2201
(Only Those Sections With Amendments Are Shown.)**

072. INTERMEDIATE AND ADVANCED CERTIFICATION.

POST Intermediate and Advanced certification recognizes the additional training and experience of patrol, detention, emergency communications officers, juvenile probation officers and juvenile detention officers already possessing a basic POST certification. In addition to the requirements otherwise set forth in these Rules, the following are required for an Intermediate or Advanced Certificate. (3-31-22)

01. Intermediate Certification. An applicant shall hold a current POST basic certification, and have acquired either the combination of college credits and/or POST training hours, combined with the prescribed years of law enforcement experience, or an associate or baccalaureate degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: (3-31-22)

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Patrol Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-31-22)

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-31-22)

c. Emergency communications officers. The applicant shall: (3-31-22)

i. Have completed a minimum of one hundred twenty (120) hours of POST certified training, which must include Emergency Communications basic training. (3-31-22)

- ii. A minimum of three (3) years of emergency communications officer experience. (3-31-22)
- d. Juvenile detention officers.

POST Training Hours Including POST Basic Juvenile Detention Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

(3-31-22)

- e. Juvenile probation officers.

POST Training Hours Including POST Basic Juvenile Probation Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Probation Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

(3-31-22)

- f. Misdemeanor probation officers.

POST Training Hours Including POST Basic MPO Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST MPO Basic Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement <u>Misdemeanor Probation</u> Experience	8 or more	7	6	5	4	4	2

~~(3-31-22)~~ ()

02. Advanced Certification. An applicant shall hold a current POST basic certification, possess or be eligible to possess an intermediate certificate, and have acquired either the combination of college credits and POST training hours, combined with the prescribed years of law enforcement experience, or an associate, baccalaureate, master's or doctoral degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: (3-31-22)

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Patrol Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. (3-31-22)

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Detention Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. (3-31-22)

c. Emergency communications officers. (3-31-22)

i. Have completed a minimum of five hundred (500) hours of POST certified training, which must include POST approved Emergency Communications basic training. (3-31-22)

ii. Have at least ten (10) years of communications specialist experience. (3-31-22)

d. Misdemeanor probation officers.

POST Training Hours Including POST Basic MPO Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic MPO Academy
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College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Misdemeanor Probation Experience	13 or more	12	11	10	9	8	8	6	4

(3-31-22)()

03. Probationary Period. An applicant shall have completed a probationary period of at least six (6) consecutive months with the employing agency prior to applying for intermediate or advanced certificates. Agencies may require a longer probationary period prior to application. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

131. IN-SERVICE TRAINING REQUIREMENTS FOR RETAINING BASIC CERTIFICATION.

01. Peace Officers. To retain POST certification, a peace officer must complete a minimum of forty (40) hours of continuing law enforcement training as directed by the POST Council every two (2) calendar years beginning January 1 following the date the officer was certified. This training must include a combined minimum twenty-four (24) hours of continuing law enforcement training in the following topics: (3-31-22)

- a. Firearms: Eight (8) hours and an annual proficiency test (qualification); (3-31-22)
- b. Arrest Techniques/Defensive Tactics (ARCON): Eight (8) hours; (3-31-22)
- c. Emergency Vehicle Operation: Four (4) hours; (3-31-22)
- d. Legal Update(s): Four (4) hours. (3-31-22)

02. County Detention Officers. To retain POST certification, a county detention officer must complete a minimum of forty (40) hours of continuing law enforcement training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. ()

023. Emergency Communications Officers. To retain POST certification, an emergency communications officer must complete a minimum of forty (40) hours of continuing training related to public safety emergency communications every two (2) calendar years beginning January 1 following the date the officer was certified. (3-31-22)

034. Tolling of Two-Year Period. The two (2) year continuing training period shall be tolled while an officer is on active military duty, and recommence upon the officer's return to duty with his agency. The agency shall submit a Notice of Separation/Change in Status form upon the officer's departure from and return to the agency. (3-31-22)

IDAPA 13 – IDAHO FISH AND GAME COMMISSION
ESTABLISHING SEASONS AND LIMITS FOR HUNTING, FISHING, AND TRAPPING IN IDAHO
DOCKET NO. 13-0000-2200P6
NOTICE OF ADOPTION / AMENDED PROCLAMATION FOR CALENDAR YEAR 2022

AUTHORITY: As authorized by Section 36-104, Idaho Code, and in compliance with Section 36-105(3), Idaho Code, the Commission adopts proclamations establishing seasons and limits for hunting, fishing, and trapping in Idaho.

AVAILABILITY OF OFFICIAL PROCLAMATIONS: Hunters, anglers, and trappers are advised to consult the text of the Commission's official proclamation before hunting, fishing, or trapping. All proclamations are available on-line at <https://idfg.idaho.gov/rules>, with print versions available at Idaho Department of Fish and Game offices and license vendors.

DESCRIPTIVE SUMMARY AND PUBLIC MEETING SCHEDULE: The Commission meeting schedule and meeting agendas are available on-line at <https://idfg.idaho.gov/about/commission/schedule>, with opportunities for public comment generally scheduled at its January, March, May, July, and November meetings.

Information for Commission proclamations for calendar year 2022 was initially published in the Administrative Bulletin, January 5, 2022, Bulletin [Volume 22-1, pages 23-24](#).

At an August 31, 2022, meeting the Commission took the following proclamation actions:

1. Adopted limits for total nonresident participation for 2023 and 2024 for general hunts in certain elk zones and deer units, and allocated tags for outfitted hunter use in these zones and units for 2023; and
2. Amended its 2022 big game hunting seasons for hunt number 2167.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning proclamations, contact Owen Moroney at (208) 334-3715.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.02 – RULES GOVERNING MANDATORY EDUCATION, MENTORED HUNTING, AND SHOOTING RANGES

DOCKET NO. 13-0102-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-103, 36-104, 36-401, 36-409, 36-412, 36-418, and 36-1508, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every five years. Consistent with the Governor's [Executive Order 2020-01](#): Zero-Based Regulation, the agency has revised current rule language to improve clarity and reduce duplication.

The fee portion of the rulemaking relates to fees the Department charges for hunter, archery, and trapping education, and fees related to Commission-owned or Department-operated shooting ranges. Changes to current rule include fees the Department may charge for use of Commission/Department shooting ranges and for goods and services associated with these ranges.

The non-fee portion of the rulemaking relates to criteria for mandatory hunting, archery, trapping, and wolf-specific trapping education; and allowances for mentored hunting and the hunter passport program for first-time hunters. Proposed changes from current rules allow parental acknowledgment for in-person classroom instruction of their children under 18 years of age, instead of a requirement for the parent or person designated by the parent to attend mandatory education instruction. Proposed changes include a requirement for mountain goat identification (via test available online) to obtain a mountain goat tag, to support future hunt opportunity by reducing take of female (nanny) goats during hunts.

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

Under this rulemaking the Department would continue to charge a fee of \$8.00 for each course enrollment in hunter, archery, trapper, or wolf trapper education. This fee has been in effect since March 24, 2017. This fee rule would also allow the Director to set a daily use fee for Commission-owned or Department-operated shooting ranges, not to exceed \$10.00, and allows IDFG range program managers to set and charge reasonable fees for goods and services associated with these ranges.

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

There is no fiscal impact to the general fund associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, page 17](#) under Docket No. 13-0102-2201. The Department held a public meeting for negotiated rulemaking on May 16, 2022. No persons identified themselves as interested in participating in negotiated rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Amber Worthington, Deputy Director, at 208-334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

Amber Worthington Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 13-0102-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

13.01.02 – RULES GOVERNING MANDATORY EDUCATION, MENTORED HUNTING,
AND SHOOTING RANGES

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-401, 36-409, 36-412, 36-418 and 36-1508. ()

001. SCOPE.

These rules govern hunting, archery, and trapping education, mentored hunting and shooting ranges. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Accompany(ied). Close enough for conversation without shouting or using electronic devices. ()

02. Mentee. Holder of a Hunting Passport or Nonresident Junior Mentored License. ()

011. – 100. (RESERVED)

101. HUNTING PASSPORT.

01. Hunting Passport. No person holding a Hunting Passport may hunt wildlife unless accompanied by an eligible mentor. Hunting Passports are licenses for carrying and exhibition purposes under Section 36-1201, Idaho Code, and authorize holders to hunt without mandatory hunter education. Hunting Passports expire December 31 of the year for which they are valid. ()

02. Passport Eligibility. ()

a. Only persons eight (8) years of age or older, who have not previously possessed a Hunting

Passport, hunting license, or equivalent license in any state or country, may possess a Hunting Passport. Youths may possess additional Hunting Passport(s) each year until reaching ten (10) years of age. ()

b. Hunting passport holders at least ten (10) years of age are eligible to obtain general hunt big game tags available for their residency. ()

c. Hunting Passport holders are not eligible to apply for controlled hunts, except as designated by landowners for landowner permission or depredation hunts. ()

d. Hunting Passport holders under eighteen (18) years of age are eligible to participate in youth-only seasons. ()

102. HUNTING MENTOR.

01. Eligibility. No person may be a mentor unless they are eighteen (18) years of age or older and have a valid Idaho hunting license. A mentor may accompany no more than two (2) mentees at once. ()

02. Game Tag. Mentees may not hunt for species requiring game tag(s) under Section 36-409, Idaho Code, unless the mentee has a valid tag for the hunt and the mentor has a tag for that species valid somewhere in Idaho during that calendar year. ()

03. Mentor Hunting. Mentors may hunt while serving as mentors if eligible for that hunt. ()

103. – 199. (RESERVED)

200. HUNTER AND ARCHERY EDUCATION.

Certification of hunter/archery education to comply with Section 36-411, Idaho Code, means presentation of Department-issued or equivalent certification. “Equivalent certification” for hunter/archery education means completed instruction by an authorized agency or association including firearms/archery safety, wildlife management and laws, hunter ethics, first aid, survival, and practical experience in handling and shooting firearms/archery equipment. ()

201. TRAPPER EDUCATION.

Any person who did not possess an Idaho trapping license before July 1, 2011, is ineligible to obtain a trapping license unless they present Department-issued or equivalent certification of trapper education. “Equivalent certification” means completed instruction by an authorized agency or association including trapping safety, wildlife management and laws, non-target species avoidance techniques, trapper ethics and practical experience with trapping equipment. Wolf-only trapping education is not equivalent certification. ()

202. WOLF TRAPPER EDUCATION.

No person may trap for wolves without successfully completing a Department-held wolf trapping education class. ()

203. – 209. (RESERVED)

210. PARENTAL PERMISSION.

Students under age eighteen (18) who are not emancipated may only attend in-person Department mandatory education instruction with signed permission of a parent or legal guardian. ()

211. – 219. (RESERVED)

220. MOUNTAIN GOAT IDENTIFICATION.

No person may obtain a mountain goat tag unless they have completed the Department’s online mountain goat gender identification test with a passing score (eighty percent (80%) or higher). One may take this test repeatedly to pass. ()

221. – 249. (RESERVED)

250. EDUCATION FEES.

The Department will charge eight dollars (\$8) for each course enrollment in hunter, archery, trapper, or wolf trapper education. ()

251. –299. (RESERVED)

300. SHOOTING RANGE FEES.

01. Fee Schedule. The Director may set a daily use fee for Commission-owned or Department-operated shooting ranges, not to exceed ten dollars (\$10.00), which a person must pay to use the range. ()

02. Goods and Services. Department range program managers have authority to set and charge reasonable fees for goods available for resale, equipment rentals, and services provided to enhance user experience unique to the range. ()

301. –999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-105, and 36-408, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rulemaking balances outfitting industry and other economic and social interests in the Commission's allocation of deer and elk tags for sale to outfitted hunters when the Commission sets tag limits only for nonresidents (residents unlimited) for a zone, unit or hunt area with a history of outfitted hunter use. The proposed rulemaking would allocate tags in such zones, units or hunt areas by: defining an initial tag use number, based on verified outfitted hunter tag use history, which will remain the same for the zone/unit for subsequent consecutive years in which tag limits apply; allocating tags annually or for a two-year period in each zone/unit corresponding to the initial tag use number, before the Commission adopts annual or biennial tag nonresident tag limits for the zone/unit; subtracting the initial tag use number from the nonresident tag limit set for the zone/unit, after which the Commission may allocate an additional portion (not to exceed 50%) of tags remaining in the nonresident limit for outfitted hunter use based on verified tag use history in the two years preceding allocation; and making tags remaining after the allocation(s) for outfitted hunters available to nonresidents.

Consistent with the Governor's Zero-Based Regulation Executive Order, the agency also edited the rule sections to improve clarity and reduce duplication.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, pages 19-20](#) under Docket No. 13-0104-2201. The Department held a negotiated rulemaking meeting on June 15, 2022.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Amber Worthington, Deputy Director, at 208-334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 24th day of August 2022.

Amber Worthington, Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-2201
(Only Those Sections With Amendments Are Shown.)

000. LEGAL AUTHORITY.

Sections 36-104(b), 36-301, 36-401 through 413, and 36-1101, Idaho Code, ~~authorize the Commission to adopt rules concerning issuance and sales of licenses.~~ (3-31-22)()

001. TITLE AND SCOPE.

~~The title of this chapter for citation is IDAPA 13.01.04, "Rules Governing Licensing."~~ These rules govern licensing. (3-31-22)()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Allocated Tag. Game tag allocated under Section 36-408, Idaho Code. ()

02. Authorized Corporate Representative. ~~Any Corporation~~ shareholder ~~in a corporation,~~ designated in writing by the corporation as the eligible tag applicant, ~~who is in actual physical control of the eligible property.~~ (3-31-22)()

03. Blind Person or Visually Impaired. ~~A blind person has a medically documented loss or impairment of vision and includes any person whose visual acuity with correcting lens does not exceed twenty-two hundred (20/200) in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees. Persons meeting criteria set forth in Sections 36-202(w) or 67-5402(2), Idaho Code.~~ (3-31-22)()

04. Domicile. ~~The place where a~~An individual's ~~has his~~ true, fixed, permanent home and ~~to which place he has the intention of where they intend to~~ returning whenever ~~he is~~ absent. ~~An individual~~s can have several dwelling places, but only one (1) domicile. ~~Factors to consider establishing domicile include, but are not limited to Determination of domicile may consider, without limitation:~~ (3-31-22)()

a. ~~What address does the person use on tax returns and where does the person file a state resident~~ income tax return ~~state of residency and filing address?~~ (3-31-22)()

b. ~~Where is the person registered to~~ voter registration? (3-31-22)()

c. ~~Location~~ where do the person and his immediate family live? (3-31-22)()

d. ~~Where does the person have his mail sent or forwarded to?~~ Mailing/forwarding address; (3-31-22)()

e. ~~Where does he register his automobiles?~~ Vehicle registration; (3-31-22)()

- f. ~~Where has the person~~ Location claimed ~~a for~~ homeowner exemption ~~on a personal residence?~~; or
(3-31-22)()
- g. ~~Where does he have a~~ State of driver's license? (3-31-22)()
- ~~045.~~ **045. Disabled.** ~~A disabled person is defined as a person m~~ Meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code. (3-31-22)()
- 056. Eligible Property.** At least three hundred twenty (320) acres of land, excluding any government lands, in one (1) controlled hunt area determined by the Department to be valuable for habitat or propagation purposes for deer, elk, pronghorn, ~~and~~ or black bear, whether owned by one (1) or more persons, a partnership, or corporation. (3-31-22)()
- 067. Landowner.** ~~Any p~~ Person or corporation whose name appears on a deed as the owner ~~of eligible property or whose name appears, or~~ on a sales contract ~~for sale of eligible property~~ as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability ~~corporations~~ companies wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership, or corporation. (3-31-22)()
- 08. Non-Allocated Tag.** Game tag other than an allocated tag. ()
- 09. Outfitted Hunter.** Person who obtains hunting services (excluding meat pack-out) under written agreement with an outfitter licensed under Chapter 21, Title 36, Idaho Code, for the species and area for which the applicable game tag is valid. ()
- 0710. Permanent Disability.** ~~A m~~ Medically determinable physical impairment, which a physician has certified ~~that the~~ as a condition has ving no expectation for a fundamental or marked ~~change~~ improvement at any time in the future. (3-31-22)()
- 0811. Physician.** ~~A p~~ Person licensed to practice medicine pursuant to the Idaho Medical Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority ~~if the person is not licensed to in the state of~~ practice ~~in Idaho.~~ (3-31-22)()
- 09. Resident.** ~~"Resident" is defined in Section 36-202(s), Idaho Code.~~ (3-31-22)
- 12. Two-Year Outfitter Verified Use History.** Tag use by outfitted hunters, as verified and recorded in accordance with Section 36-408, Idaho Code, for each of the two (2) calendar years immediately preceding the date on which the Commission determines tag allocation for a hunt area. ()

(BREAK IN CONTINUITY OF SECTIONS)

506. DEER AND ELK TAG ALLOCATION IN GENERAL HUNTS LIMITED FOR NONRESIDENTS ONLY.

01. Tag Allocation. When setting annual or biennial limits for general hunt deer or elk tags available to nonresidents without resident limits, in zones, units, or other hunt areas with historic outfitted hunter use, the Commission will first allocate, on a corresponding biennial or annual basis, the number of tags reserved for outfitted hunters equal to the Initial Tag Use Number determined under this Section 506. The Commission will subtract the number of tags so allocated from the nonresident tag limit. Subject to a maximum of fifty percent (50%) of the remaining nonresident tag limit, the Commission will allocate an additional number of tags reserved for outfitted hunters corresponding to the number by which the higher tag number from the Two-Year Verified Outfitter Use History exceeds the Initial Tag Use Number for the hunt area. The number of tags remaining in the nonresident limit after subtracting the Initial Tag Use Number, and any additional tags allocated under this section, will be available for purchase as non-allocated tags by outfitted or non-outfitted hunters. ()

02. Initial Tag Use Number. ()

a. For general hunts first limited for nonresidents while unlimited for residents in 2021 or subsequent years, the Initial Tag Use Number for outfitted hunters is the higher tag use number of the Two-Year Verified Outfitter Use History for 2021-2022, or the two (2) years immediately preceding the first year the hunt area is limited, whichever period is later. ()

b. The Commission will increase the Initial Tag Use Number for a deer unit subject to a fifty percent (50%) restriction for allocated tag limits in 2021-2022, corresponding to the reduction in outfitted hunter use demonstrated by outfitter(s). ()

c. If general hunt tags are allocated under this Section 506 for elk zones capped for all hunters before 2021, the Initial Tag Use Number will be the number determined to be historic outfitted hunter use at the time of prior capping, if greater than the otherwise applicable Two-Year Verified Outfitter Use History. ()

d. The Initial Tag Use Number will remain the same for the zone, unit, or hunt area for subsequent consecutive years in which nonresident tag limits apply. ()

5067. DEER AND ELK ~~OUTFITTER~~ ALLOCATED TAGS.

01. Distribution of ~~Outfitter~~ Allocated Tags. ~~Allocated tags will be sold by the Department, as designated by Section 36-2107, Idaho Code, and IDAPA 24.35.01.057, "Rules of Idaho Outfitters and Guides Licensing Board," to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold and in outfitter-allocated controlled hunts.~~ Application for ~~the purchase of~~ allocated tags will be made by the outfitter for the outfitted hunter, in accordance with tag designation by the Idaho Outfitters and Guides Licensing Board under Section 36-2107, Idaho Code, on a form prescribed by the Department. ~~The application shall be accompanied by the appropriate license fees, and a~~ with outfitter's certification ~~by the outfitter that the hunter has a signed a written~~ agreement to hunt with the outfitter making application exists between the outfitter and outfitted hunter for the tag applied for. (3-31-22)()

02. Designated Buyers. Purchasers of allocated tags, who return their unused tag ~~and a~~ with a notarized affidavit stating that ~~the tag buyer has~~ they have not hunted, may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. (3-31-22)()

03. Unsold Tags. Any allocated tags not sold by August 1 of each year will be sold by the Department on a first-come, first-served basis. (3-31-22)

5078. – 549. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2202

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-105, and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rulemaking would establish an exception to the current prohibition against using an electronic device attached to, or incorporated in, a scope when taking big game (IDAPA rule 13.01.08.410.01.e.). The rulemaking would allow a blind or visually impaired hunter to attach a simple electronic device (such as a smartphone camera) to a scope as a viewfinder or display screen only to aid the hunter to line up on a target. This rulemaking would establish criteria for the exception and a permitting process.

Consistent with the Governor's Zero-Based Regulation Executive Order, the agency also edited the rule section to improve clarity and reduce duplication.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: This rulemaking originated via petition. Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, page 21](#) under Docket No. 13-0104-2202. The Department held a negotiated rulemaking meeting on July 21, 2022. No persons other than petitioners identified themselves as interested persons. No members of the public attended the meeting. The Department reviewed draft rule language with petitioners.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Amber Worthington, Deputy Director, at 208-334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 24th day of August, 2022.

Amber Worthington, Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0104-2202
(Only Those Sections With Amendments Are Shown.)

304. REASONABLE MODIFICATION PERMIT (WEAPON RESTRICTIONS).

01. **Application.** Applications for reasonable modification permits (for medical reasons) to allow use of equipment otherwise unauthorized ~~in a special weapon season (archery or muzzleloader only)~~ will include: (3-31-22)()

- a. All information requested on a form prescribed by the Department; (3-31-22)
- b. The applicant's signature; (3-31-22)
- c. Signed certification from the applicant's physician, physician assistant, optometrist, or nurse practitioner stating the criteria limiting the applicant's ability to participate without special accommodation, including checking of the appropriate box for short-term or long-term disability, and for short-term disability, including date when the disability is expected to end; (3-31-22)
- d. A copy of the license of the physician, physician assistant, optometrist, or nurse practitioner, if that person is not licensed to practice in Idaho; (3-31-22)
- e. Applicant's certification that applicant is able to hold and fire, without help from other persons, legal firearms or archery equipment; and (3-31-22)
- f. A description of ~~the~~ equipment accommodation requested, explaining how the requested accommodation will allow the applicant to participate ~~in the special weapon hunt~~ without enhancing their abilities beyond the limitations and purpose of the ~~special weapon~~ hunt. (3-31-22)()

02. **Determination.** The Department will make its determination based on ~~the~~ reasonableness of the accommodation and its consistency insofar as possible with all provisions guiding other ~~participants in the special weapon hunting season~~ hunters. The Department has discretion to deny ~~the~~ applications as unreasonable in light of restrictions for other ~~participants in the~~ hunters, or set a modification different from the modification requested. (3-31-22)()

- a. Reasonable modification related to accommodation for use of scope or sight magnification (including battery-powered or tritium-lighted reticles) for archery or muzzleloader equipment may include magnification up to 4x power because of equipment availability. (3-31-22)
- b. Reasonable modification related to archery only hunts may include the use of a crossbow or a device that holds a bow at partial or full draw. (3-31-22)
- c. Reasonable modification for blind or visually impaired hunters may include a simple electronic device (e.g., smartphone camera), incorporated or attached to the scope (otherwise prohibited by IDAPA 13.01.08.410.01), for use by the hunter or companion, only as a viewfinder or display screen to aid in aiming. ()

03. **Authority.** Reasonable Modification Permits authorize holders to use equipment, as specified in the permit, that is otherwise prohibited ~~in a special weapon season~~. (3-31-22)()

04. **Expiration and Carrying.** (3-31-22)

- a. Reasonable modification permits expire no later than December 31 of the fifth year following the ~~issuance~~ date ~~of issuance~~, or the earlier ending of any shorter-term disability. (3-31-22)()
- b. A permit holder must carry a copy of the permit ~~while during any~~ hunting ~~in any special weapon hunt~~ in which the permit applies. (3-31-22)()

IDAPA 13 – DEPARTMENT OF FISH AND GAME
**13.01.10 – RULES GOVERNING IMPORTATION, POSSESSION,
RELEASE, SALE, OR SALVAGE OF WILDLIFE**
DOCKET NO. 13-0110-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-103, 36-104, 36-701, 36-703, 36-704, 36-706, 36-708, 36-712, and 36-2201 to 36-2205 Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking has been scheduled and posted on agency website at <https://idfg.idaho.gov/about/rulemaking>.

PUBLIC MEETING Tuesday, October 18, 2022 @ 12:00 p.m. (Mountain Time)
In Person: IDFG Headquarters 600 South Walnut St., Boise, ID 83712
Virtual by Zoom Meeting Link: https://us06web.zoom.us/j/83077793532

Additional public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every 5 years. This rulemaking concerns the commercial and non-commercial importation, possession, release, sale, or salvage of wildlife. The rules under consideration govern import and transport permit issuance; captive wildlife; disease of captive wildlife; recovery, possession and sale of wildlife parts; prohibition on possession, importation and transportation of deer/moose/wild elk carcasses or parts from areas known to have animals with chronic wasting disease; private and commercial wildlife facilities; wildlife rehabilitation facilities; release of captively propagated game birds; and operation of shooting preserves. Consistent with the Governor’s [Zero-Based Regulation Executive Order](#), the agency has reorganized rule sections in this chapter and revised current rule language to improve clarity and reduce duplication.

This proposed rulemaking includes changes to current rules to clarify definitions, including those for agricultural/domestic animals, conventional pets, bona fide pet stores, captive wildlife facilities, private parks, commercial wildlife facilities, large commercial wildlife facilities, shooting preserves, and several acronyms. Proposed changes to current rule also: clarify that allowances for release of native wildlife without a permit does not apply to non-native wildlife; restrict the release of captured wild native reptiles and amphibians back into the wild in certain circumstances; and make the sale of rattlesnake parts consistent with other native reptile possession requirements. Proposed changes modify primary wolf characteristics to include both male and female weights and eliminate eye shine color as a characteristic. Proposed changes include language to distinguish a requirement for captive wildlife facilities to provide an inventory of animals yearly to the Department from a requirement that animal health records must be available for Department inspection upon request. Proposed changes shift reporting of animal

deaths to the appropriate IDFG Regional Office from the Wildlife Health Laboratory. Proposed changes clarify requirements applicable to wildlife rehabilitation facilities. Proposed changes clarify requirements applicable to captively propagated game birds intended for release in Idaho, and delete a requirement for habitat verification for the Department's permitting of game bird shooting preserves.

Proposed change to the current rule would eliminate facility construction cost in the calculation of financial assurance requirements (via cash or surety bonds) for large commercial wildlife facilities. The proposed change would rely on a \$2,000 per animal held, or \$50,000 whichever amount is greater, financial assurance to guarantee performance of license conditions and to reimburse the Department for any costs incurred for cleanup of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control.

FEE SUMMARY: There is no fee associated with this rule.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-4, page 22](#) under Docket No. 13-0110-2201. No persons identified themselves as interested in participating in negotiated rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Tricia Hebdon, Assistant Chief of Wildlife, 208-287-2704.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

Amber Worthington Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0110-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

13.01.10 – RULES GOVERNING IMPORTATION, POSSESSION,
RELEASE, SALE, OR SALVAGE OF WILDLIFE

000. LEGAL AUTHORITY.

Sections 36-103, 36-104, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, 36-712, and 36-2201-2205, Idaho Code. ()

001. SCOPE.

These rules govern commercial and non-commercial importation, possession, release, sale, and salvage of wildlife.

()

002. -- 009. (RESERVED)

010. DEFINITIONS.

In this chapter, “wildlife” excludes bullfrogs, fish, or crustaceans whose possession, transport, release, and sale are regulated by IDAPA 13.01.11 and 13.01.12 or by ISDA, unless they are or will be maintained in a zoo or aquarium for live exhibit to the public. ()

01. Agricultural/Domestic Animals. Animals or eggs normally considered to be of agricultural or domestic types currently common to Idaho that: (1) do not meet the definition of wildlife in Section 36-202, Idaho Code and (2) are not intended for release into the wild in Idaho. These include but are not limited to livestock, domestic bison, domestic cervids, and domestic furbearing animals regulated by ISDA under Title 25, Idaho Code. ()

02. Bona Fide Pet Store. Legitimate retail store that engages in the selling of conventional pets with a set location and regular business hours. ()

03. Captive Wildlife Facility. Facility where the operator obtains, possesses, or propagates wildlife for any purpose, including commercial, rehabilitation, private ownership (including private park) or sale. ()

04. Commercial Wildlife Facility. Facility where the operator obtains, possesses, or propagates wildlife for any commercial purpose, including exhibition, education, entertainment, or sale. ()

05. Commercial Wildlife Farm. Commercial wildlife facility where operator propagates big game animals not regulated by ISDA. ()

06. Conventional Pets. Privately owned companion animals not intended for research or resale that are not native wildlife captured from the wild in Idaho: dogs, cats ferrets, rabbits, rodents, non-venomous or non-dangerous reptiles and amphibians, non-poultry birds, hedgehogs, tenrecs, and sugar gliders. ()

07. CWD. Chronic Wasting Disease. ()

08. ISDA. Idaho State Department of Agriculture. ()

09. Large Commercial Wildlife Facility. Commercial wildlife facility housing three or more species or encompassing display or exhibit areas larger than one (1) acre. ()

10. NPIP. National Poultry Improvement Program for state-federal cooperative testing and certification. ()

11. Private Park. Facility where the owner or operator obtains, possesses, or propagates wildlife in captivity for personal pleasure and not for any commercial purpose. ()

12. Publicly Owned Zoo or Wildlife Exhibit. Zoo, aquarium, or similar facility exhibiting wildlife owned by any municipal, county, state, or federal agency. ()

13. Shooting Preserve. Privately owned or leased premises operated for hunting of captively propagated upland game birds. ()

14. Traveling Circus, Menagerie, or Trained Act of Wild Animals. Mobile wildlife display or exhibit maintained for instructional, educational, entertainment, or other commercial purposes that is not located within Idaho more than two (2) months during any calendar year. ()

011. -- 099. (RESERVED)

100. POSSESSION OR SALE OF WILDLIFE KILLED LAWFULLY.

In addition to the restrictions and permissions set forth in Sections 36-106, 36-501, 36-502, and 36-1107, Idaho Code: ()

01. Edible Flesh. No person may sell, purchase, or barter the edible flesh of game animals or other wildlife protected by classification under IDAPA 13.01.06. ()

02. Rattlesnakes. Skins or rattles of rattlesnakes lawfully killed in defense of people or property, or dying in lawful captivity, may be possessed, purchased, or sold, provided the person taking rattlesnake(s) from the wild or owning in captivity does not sell more than four (4) rattlesnakes per year. ()

03. Written Statement for Possession by Another. A written statement showing the taker's name, address, license and tag/permit numbers, date and location of kill, the part(s) possessed, and signed by the taker, must accompany wildlife or its parts when possessed by another person. Any buyer of black bear or mountain lion head, hide or parts (except tanned hides finished into rugs or mounts) must send a copy of the sales statement, or a Department Form CE-50, to the Department within ten (10) days after such purchase. ()

04. Lawfully Taken under other Jurisdiction. Wildlife or parts thereof that have been legally killed, collected, or salvaged under the laws of other states, Indian tribes, or countries may be possessed or sold in Idaho unless Idaho prohibits such possession or sale. ()

101. – 119. (RESERVED)

120. RECOVERY OF PROTECTED WILDLIFE.

Protected species of wildlife that have died naturally (not human-caused) or by accidental or unlawful human causes, remain in public trust to be disposed of by the Department. However, a person may recover, possess, sell or purchase parts protected wildlife dying of natural causes or accidental vehicle collision as follows: ()

01. Bighorn Sheep. ()

a. Horns of bighorn sheep dead of natural causes may be recovered and possessed, provided such horns are presented to a Department office for marking by permanent metal pin within thirty (30) days of recovery. Pin insertion is not Department certification that the animal was legally taken. No person may sell, barter, purchase, or transfer to another person any horn from bighorn sheep that have died from natural causes without a Department permit. ()

b. No person may alter, deface, or remove a pin placed in a bighorn sheep horn by the Department. No person may possess any horn of a bighorn sheep that bears an altered, defaced, or counterfeit Idaho pin or from which a state pin has been removed. ()

02. Big Game other than Bighorn Sheep. Antlers, hides, bones, horns, or teeth of big game animals other than bighorn sheep that have died of natural causes may be recovered, possessed, purchased, bartered or sold, provided that reporting of bear and mountain lion parts is in accordance with reporting under Section 100.03 of these rules. ()

03. Wildlife Salvaged from Vehicle Collision. Big game animals, upland game animals, upland game birds, or furbearing animals, which may be lawfully hunted or trapped in Idaho, or predatory or unprotected wildlife that have been killed or dispatched as a result of accidental vehicle collision and salvaged in compliance with Section 36-506, Idaho Code, may be recovered, possessed, provided that such taking is not in violation of state or federal law. Parts of said wildlife, excluding any meat and excluding any part of bighorn sheep, may also be purchased, bartered, or sold, where sale is not specifically prohibited by federal statute or regulation or state statute, provided a written statement as described in IDAPA 13.01.10.100.03 accompanies the wildlife part. ()

121. – 139. (RESERVED)

140. TAXIDERMY AND FUR BUYER LICENSE RECORDS.

Persons possessing a taxidermist or fur buyer license must keep a record of any wildlife received for mounting or preservation; and of any purchase of furbearers, or of raw skins or parts of black bear, mountain lion or wolves, with

said record to be kept for two (2) years from the respective date of receipt or purchase. Records may be written or preserved by media complying with Section 9-328, Idaho Code; copies of completed Department Form CE-50 are also considered adequate records. ()

141. – 149. (RESERVED)

150. CWD MANAGEMENT RESTRICTIONS.

01. Designation of CWD Management Zone. The Commission may designate CWD Management Zone(s) where wildlife is subject to increased risk of acquiring CWD based on presence of CWD-infected animals and information on wildlife movement. The Director may designate CWD Management Zone(s) on a temporary basis, for a period not to exceed ninety (90) days and subject to Commission review. ()

02. Prohibitions. It is unlawful to: ()

a. Import into Idaho the carcass or any part of deer, elk, or moose from another state, Canadian province, or country (other than Canada) with any documented CWD; ()

b. Transport the carcass or any part of deer, elk, or moose out of any CWD Management Zone to any portion of the state that is not a designated CWD Management Zone; or ()

c. Possess the carcass or any part of deer, elk, or moose that: has been imported from another state, Canadian province or country with a documented case of CWD; or transported out of any CWD Management Zone to or across any part of the state that is not a designated CWD Management Zone. ()

03. Exceptions. This section does not apply to: ()

a. Domestic cervids regulated under Chapter 37, Title 25, Idaho Code; ()

b. Meat that is cut and wrapped; ()

c. Quarters or deboned meat that does not include brain or spinal tissue; ()

d. Edible organs, excluding brains; ()

e. Hides without heads; ()

f. Upper canine teeth (ivories); ()

g. Finished taxidermy; ()

h. Dried antlers; ()

i. Cleaned and dried skulls or skull caps; ()

j. Skull caps that do not include brain or spinal tissue; or ()

k. Head or tissue from a CWD Management Zone, provided it is presented to the Department for sampling purposes, with the Department to keep possession for appropriate tissue disposal. ()

04. Disposal of Carcasses or Parts in Violation. The Department may seize carcasses or parts imported, transported, or possessed in violation of this section, with a person in violation of this section responsible for handling and disposal costs, as authorized under Chapters 34 and 53, Title 19, Idaho Code. ()

151. – 199. (RESERVED)

200. LIVE WILDLIFE.

01. General. No person may import into Idaho, export from Idaho, transport, possess or otherwise hold in captivity, propagate, sell or release into the wild any live wildlife, except those animals exempted by Idaho Code or these rules, without a corresponding import, export, transport, captive possession (individual animal license or multiple animal license at a private, commercial or rehabilitation facility), sale or release license/permit from the Department. Use of raptors in falconry is governed by IDAPA 13.01.14, Rules Governing Falconry. ()

02. Compliance with Other Agency Requirements. No person may possess, hold in captivity, or propagate any wildlife without complying with relevant city or county ordinances, including any zoning and planning commission approval, and any ISDA or USDA requirements. ()

03. Restrictions on License Issuance. The Department will not issue any license/permit for import, export, transport, captive possession, sale, or release of live wildlife or eggs thereof, if the wildlife or eggs would pose a threat to the state of Idaho, including public safety, threat of disease, genetic contamination or displacement or of competition with existing species. Because of CWD, the Department will not issue any permit for the import into Idaho of any live cervid not regulated as a domestic cervid by ISDA. ()

04. Marking Big Game. All captive big game animals (excluding domestic cervids regulated by ISDA) must be uniquely marked via Department-approved method and numbering. ()

05. Inspections and Records. As a condition to any facility or individual captive animal license, the Department will be able to access for inspection at any reasonable time all records, all wildlife, and the facilities where the wildlife are kept, with records maintained as specified in Section 36-709(c), Idaho Code. ()

06. Exemptions for Import, Export, Transport, Possession or Sale. No permit is needed from the Department to import, export, transport, possess or sell the following animals, provided they are not intended for release into the wild (although another state or federal agency may regulate such activity): ()

- a. Agricultural/domestic animals. ()
- b. Conventional pets. ()

07. Exemptions for Unprotected and Predatory Wildlife. ()

a. Wildlife classified as Unprotected Wildlife or Predatory Wildlife that are lawfully taken by a person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may be exported, transported, possessed, or sold without additional permit from the Department, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. ISDA may restrict the possession, sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code. ()

b. Native unprotected or predatory wildlife lawfully captured alive may be released on private lands in the county of origin without a Department permit in accordance with Section 36-502, Idaho Code and with written landowner consent in possession while such wildlife is in transit to the release site. ()

08. Exemptions for Native Reptiles and Amphibians. A person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may capture alive, or hold in captivity and possess, no more than four (4) individuals per species of Idaho native reptiles or amphibians at one time, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. Because of disease concerns, native reptiles or amphibians held in captivity with another reptile or amphibian obtained from any other location may not be released back into the wild unless the Department provides advance authorization. ()

201. DISEASE OF CAPTIVE WILDLIFE.

The Department and ISDA will mutually determine diseases and parasites of concern and mechanisms and procedures for control of diseases and parasites in captive wildlife. Such mechanisms and procedures include but are not limited to examination, testing, quarantine, and slaughter or destruction, at the owner's expense, of individual animals or herds that are infected with or affected by diseases or parasites that may have significant detrimental effect

on native wildlife, other captive wildlife, livestock or the public health of the citizens of the state of Idaho. ISDA authorizes such disease and parasite control measures under Title 25, Chapter 2, Idaho Code. ()

202. LIVE WILDLIFE IMPORT OR TRANSPORT.

01. Application. Application for a permit to import or transport wildlife will be on a form prescribed by the Department. The applicant must possess a valid commercial or private wildlife facility license or individual captive wildlife permit or make concurrent application for such facility or individual animal possession license. ()

02. Inspection and Examination. Upon Department request, the applicant must provide a valid Certificate of Veterinary Inspection from the state of origin for each animal imported or transported. ()

03. Additional Requirements. The Department may impose test and certification requirements related to genetic issues or diseases of concern for any animal to be imported or transported. ()

203. LIVE WILDLIFE IN TRANSIT.

All required licenses and certificates must accompany live wildlife while in transit. ()

204. POSSESSION OF UNLAWFUL IMPORT.

No person may possess any wildlife, progeny or eggs thereof, whose import into this state was unlawful. ()

205. – 249. (RESERVED)

250. CAPTIVE WILDLIFE POSSESSION.

01. Application. Application for a license to possess captive wildlife on an individual basis will be on a form prescribed by the Department. ()

02. Inspection and Examination. Upon Department request, the applicant or license holder must make animal(s) available to the Department for inspection during business hours or provide a valid Certificate of Veterinary Inspection for any captive wildlife possessed. ()

251. CAPTIVE WOLVES.

01. License and Tattoos. No person may possess a live wolf or other canine exhibiting primary wolf characteristics without proper identification and a license on an annual calendar year basis from the Department, to be obtained by no later than three days of commencing possession of the animal. Proper identification is a microchip and tattoo inside the flank or ear for any animal six (6) months of age or older. Application for license will be on a form prescribed by the Department, and the applicant will provide written and photographic confirmation of tattooing. ()

02. Primary Wolf Characteristics. ()

a. Rounded ears smaller in proportion to those of the coyote; ()

b. Broad snout with nose pad wider than one (1) inch; ()

c. Long legs, approximately twenty-six (26) to thirty-two (32) inches at the shoulder in adult height; ()

d. Four and one-half (4.5) to six (6) feet long from tip of nose to tip of tail; ()

e. Adult male weight at least eighty (80) pounds; adult female weighs at least sixty (60) pounds adult; ()

f. Tail carried high or straight out when running; ()

- g. Long, coarse fur, variable from white to black (generally grayish). ()

252. – 259. (RESERVED)

260. HUMANE TREATMENT OF CAPTIVE WILDLIFE.

01. Humane Treatment. All captive wildlife must be handled in a humane manner and in a manner to prevent parasites, sickness, or disease, including but not limited to the following actions: ()

a. Any captive wildlife afflicted with parasites or disease is immediately given professional medical attention or destroyed in a humane manner. Any infected or injured animal infected is removed from public display. ()

b. Any captive wildlife is fed on a regular schedule. Food is adequate and varied and so far as possible, consistent with food ordinarily eaten by such animals. Food is of good quality and stores of same are kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. ()

c. Fresh or running water for drinking purposes is available in cages or enclosures at all times, and is kept clean and in a sanitary condition. ()

d. Enclosures will be kept in a clean and sanitary condition consistent with good animal husbandry. ()

e. Any animals with a propensity to fight or which are otherwise incompatible are kept segregated. ()

f. Suitable shelter or shields will be provided for all captive animals for protection from the elements, shelter and privacy. ()

g. Cages or enclosures will attempt to mimic the natural climate and habitat of the species being held, as nearly as possible. ()

261. PREVENTION OF ESCAPE OF CAPTIVE WILDLIFE.

All wildlife held in captivity must be confined at all times in cages or enclosures of such structure or type of construction that it will be impossible for such animals to escape, meeting the following minimum specifications. The Department may approve alternative enclosures, by considering standards or guidelines, such as those specified by the Association of Zoos and Aquariums: ()

01. For ursids (bears), canids, or felids, animals, the enclosure will: ()

a. Have a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal digging through the floor to escape; ()

b. Have a chain link fence of at least eight (8) feet in height with barbed wire overhang; ()

c. Have a chain link cage top; ()

d. Have any other Department-approved configuration that will preclude escape. ()

02. For all animals, cages or enclosures will be of sufficient size to give the animal or bird confined ample space for exercise and to avoid being overcrowded. ()

a. The length of the cage or enclosure will be a minimum of four (4) times the body length (tip of nose to base of tail) of the animal being kept, reptiles excepted. ()

- b. The width will be at least three-fourths (3/4) of the cage length. ()
- c. For the second animal housed in cage, floor space will be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space will be increased fifteen percent (15%). Cages with tops will be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions that might injure or impair the animal will be allowed within the cages. ()
- d. For all animals, cages or enclosures will be constructed to prevent entrance by other animals and prevent harm to or by the general public. Cages, fencing, and guardrails will be kept in good repair at all times; and gates will be securely fastened and locked. ()
- e. For all venomous reptiles, enclosures will have safety glass and cages will have small enough mesh to prevent the animal's escape and double walls sufficient to prevent penetration of fangs to the outside; and all cages and enclosures will be kept locked. ()

262. RESPONSIBILITY OF POSSESSOR OF CAPTIVE WILDLIFE.

Any person possessing live wildlife in captivity is responsible for the care of the wildlife in possession and the protection of the public, and liable for the expense of capture or destruction of any escaped wildlife, including any costs incurred by the Department. The Department makes no representation concerning public safety of any licensed captive wildlife or facility. ()

263. – 299. (RESERVED)

300. CAPTIVE WILDLIFE FACILITIES (PRIVATE, COMMERCIAL, REHABILITATION).

01. General. No person may own or operate or maintain a private park, commercial wildlife, or rehabilitation facility without obtaining the appropriate license for each facility from the Department. ()

02. Applications. Application to operate a private, commercial or rehabilitation wildlife facility will be on a form prescribed by the Department, with separate application to be made for each facility and for any animal(s) imported after a facility is licensed. The Department will only consider an application that includes: ()

- a. The name and address of the applicant and any owner(s) other than the applicant. ()
- b. Proof of compliance with city/county zoning ordinance or zoning permit application. ()
- c. The location of the proposed facility, including a legal description of the land, identification of property ownership, the approximate space devoted to the facility. ()
- d. The number and kinds of wildlife being or to be kept. ()
- e. The licensed veterinarian(s) expected to serve the facility. ()
- f. Specifications of pens and shelters furnished for each kind of animal. ()
- g. Specifications of the guard fence or other security measures to prevent escape or protect the public from injury by the animals. ()
- h. For private and commercial facilities, the date upon which each animal was or is to be obtained. ()
- i. For private and commercial facilities, the source, including address and telephone number, from which each animal was, or is to be, obtained, and health certificate for all animals addressing diseases of concern. If already in possession, the type of license under which each animal is possessed. ()

03. Records. Persons operating a captive wildlife facility must provide the Department, at least once

each license year, a list of wildlife by numbers of animals, and species, and keep a record of any wildlife received, born, dying, sold, exported or transported from the facility, with said record to be kept for five (5) years from the respective date of the action and available for Department inspection upon request. For private parks or commercial facilities, records must include documentation of legal possession of all wildlife kept at the facility including licenses, permits, receipts, invoices, bills of lading, or other satisfactory evidence of ownership. ()

04. Specific Requirements. The Director has discretion to identify specific license conditions to address relatively unique features of individual captive wildlife facilities or species, and violation of any such condition is a violation of these rules. ()

301. – 399. (RESERVED)

400. COMMERCIAL WILDLIFE FACILITIES.

In addition to the rules for captive wildlife facilities in Section 300, the following apply to commercial wildlife facilities. ()

01. Dead Wildlife. Record of inspection by a licensed veterinarian must be kept for all wildlife which die on the premises, and a copy forwarded to the IDFG Regional Office where the commercial wildlife facility is located within ten (10) days of the death of the animal. ()

02. Veterinary examination. At least once a year and otherwise at the Department’s request, each captive wildlife at a commercial wildlife facility must receive an examination from a licensed veterinarian. The permittee must maintain a complete record of veterinary examinations, illness, treatment and disposition for each permitted animal and make such record available to the Department upon request. ()

03. Feeding by Public. No commercial wildlife facility may allow the public to feed captive wildlife. Commercial wildlife facilities must post signage conspicuously on cages or enclosures advising the public to refrain from feeding wildlife. ()

04. Restraints. No wildlife on public display or exhibition may chained or otherwise tethered to any stake, post, tree, building, or other anchorage, except for raptors as provided by IDAPA 13.01.14, “Rules Governing Falconry.” ()

05. License Display. A commercial wildlife license is to be displayed at the licensed facility in plain view at all times. ()

06. Sale of Animal Meat or Parts. ()

i. A commercial wildlife facility licensee may sell or otherwise dispose of the carcass, parts, or by-products of a properly identified big game animal taken from a commercial wildlife facility only upon preparing an invoice or bill of sale as specified by the Department and attaching a copy of it to the lot shipment, carcass, or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or by-products of the animal, the same may be transported to the transferee named on the invoice or bill of sale. ()

ii. The licensee may sell commercial wildlife facility animals for meat upon compliance with all applicable health laws, USDA, and ISDA regulations. ()

401. – 409. (RESERVED)

410. LARGE COMMERCIAL WILDLIFE FACILITIES.

In addition to the rules for captive and commercial wildlife facilities in Section 300 and 400, the following apply to large commercial wildlife facilities: ()

01. Animal Display and Security. Commercial wildlife facilities that are of a size large enough or with a large number of animals incompatible with the cage or enclosure requirements of Section 260 may, in the Director’s discretion, be addressed with facility-specific license terms. Any cage or enclosure must be of such

structure or type of construction to prevent escape of the captive wildlife, or damage to native wildlife through habitat degradation, genetic contamination, competition, or disease. In identifying facility-specific license terms, the Department may consider standards or guidelines, such as those specified by the Association of Zoos and Aquariums, for cage, open space, shelter, enclosure, and display in a natural-appearing environment and in such a way as to preserve animal dignity. Terms may include, but are not limited to, fence specifications, electric fence specifications, pits or moats, buried fencing, and display features to enhance appreciation for the species and its natural history. ()

411. LARGE COMMERCIAL WILDLIFE FACILITY BOND.

Any large commercial wildlife facility must provide a bond to the Department in the amount of fifty thousand dollars (\$50,000), or two thousand dollars (\$2,000) per animal, whichever is greater, executed by a qualified surety duly authorized to do business in the state of Idaho, to guarantee performance of license conditions and to reimburse the Department for any costs incurred for cleanup of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control. With prior approval, the applicant may instead submit a cash bond to the Department including, but not limited to, certificates of deposit, registered checks, certified funds, and money orders. ()

412. – 449. (RESERVED)

450. REHABILITATION FACILITIES.

In addition to the rules for captive wildlife facilities in Section 300, the Director has discretion to limit the species or numbers of wildlife accepted at or released from a wildlife rehabilitation facility, and may identify other specific license conditions to address relatively unique needs of rehabilitation, release into the wild or transfer or non-releasable animals. In identifying facility-specific license terms, the Department may identify standards or guidelines, such as those specific by the International Wildlife Rehabilitation Council for providing humane care. ()

451. – 499. (RESERVED)

500. CAPTIVELY PROPAGATED GAME BIRDS.

01. Import. No person may import captively propagated game birds into Idaho intended for release into the wild or on a shooting preserve in Idaho without a permit from the Department. ()

02. Permit for Field Release. No person may use captively propagated game birds at a shooting preserve or in field training for dogs or falconry unless the owner of the shooting preserve, or owner of any dog or raptor being field trained at a location other than a shooting preserve: ()

a. Has a valid shooting preserve or Bird-Dog/Falconry Training permit and makes it available to the Department in the field upon request. ()

b. Has documentation of the commercial supplier's compliance with the NPIP and, if imported into Idaho, a certificate of veterinary inspection, and makes it available to the Department in the field upon request. ()

501. – 549. (RESERVED)

550. SHOOTING PRESERVES.

01. Shooting Preserves. No person may operate a shooting preserve without a license from the Department and a vendorship contract with the Department under which the operator maintains a supply of shooting preserve hunting licenses for issuance to clients of the preserve. ()

02. Applications. Application for a shooting preserve license will be on a form prescribed by the Department. ()

03. Species Permitted. Only those species of upland game birds specified on the permit may be held or released on the shooting preserve. ()

04. Holding Facilities. The provisions of Sections 260 and 261 of these rules pertaining to bird enclosures apply to all rearing pens, holding pens, and other rearing or holding facilities. ()

05. Inspection. As a condition to any shooting preserve permit, the Department will have reasonable access to the premises of any authorized shooting preserve for the purpose of inspecting rearing, holding, and storage facilities, licenses, birds in hunters' possession, and records pertaining to the operation of said shooting preserve. ()

551. – 699. (RESERVED)

700. VIOLATION GROUNDS FOR LICENSING ACTION AND ANIMAL REMOVAL.

The Department may revoke any existing license for possession of captive wildlife or operation of any captive wildlife facility, and may refuse to issue any future license based on failure to remove or eliminate violations of Title 36 or these rules. Prior to revocation, non-renewal or non-issuance on such basis, the Department will give written notice of such violation(s) to the license-holder or applicant, and specify a reasonable timeframe of not less than ten (10) days to correct such violation(s). The Department's revocation or refusal to issue a future license may be in addition to any criminal charges or civil action that may be filed. All animals held under license(s) so revoked or held without appropriate license are subject to removal at owner's expense, with disposition as determined by the Department. ()

701. – 999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.14 – RULES GOVERNING FALCONRY

DOCKET NO. 13-0114-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-409, and 36-1102, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every five years. The rule chapter under consideration governs falconry (the private possession of birds of prey in captivity for use in hunting). Consistent with the Governor's [Executive Order 2020-01: Zero-Based Regulation](#), the agency has reorganized rule sections in this chapter and revised current rule language to improve clarity and reduce duplication.

The U.S. Fish and Wildlife Service must be satisfied with Idaho's regulation of falconry to delegate authority for falconry regulation to the state under the federal Migratory Bird Treaty Act. IDFG will be reviewing the proposed rule with the Service and may have to make changes to the proposed rule to address federal requirements.

Proposed changes to the current IDAPA chapter 13.01.14 include: restructuring of the chapter to divide possession, import, sale, and propagation activities into separate rule sections; providing clarity on the classes of falconry permits; and revising reporting requirements for change in possession/ownership status for captive birds of prey. The proposed changes also consolidate requirements for release of captively propagated game birds associated with falconry into general requirements for captively propagated game birds in IDAPA 13.01.10, "Rules Governing Importation, Possession, Release, Sale or Salvage of Wildlife."

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-4, pages 23-24](#) under Docket No. 13-0114-2201. The Department held a public meeting on May 5, 2022, in which members of the Idaho Falconers Association participated and were generally unified in their perspective on rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Jeff Knetter, Upland Game & Migratory Bird Coordinator, 208-287-2747.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

Amber Worthington Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0114-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

13.01.14 – RULES GOVERNING FALCONRY

000. LEGAL AUTHORITY.

Sections 36-104 (b), 36-409, and 36-1102, Idaho Code. ()

001. SCOPE.

These rules establish a falconry program in the state of Idaho for federal certification. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Captive-Bred. Raised in captivity from eggs laid by captive raptors. ()

02. Falconry. Capturing, possessing, caring for, transporting, training, or using raptors to take wild or artificially propagated animals as recreation. ()

03. Immature Raptor. A raptor that is less than one (1) year old. ()

04. New U.S. Resident. Any person who has moved legally into the United States or a recognized U.S. Territory to reside. ()

05. Non-Resident. Any person who does not qualify as an Idaho resident under Section 36-202(s), Idaho Code. ()

06. Raptor. Any bird in the Order Falconiformes or Strigiformes. ()

07. Transfer. To import, export, transport, convey, deliver, loan, gift, give, barter, or sell a raptor or raptor parts or any permit from one person, place, or situation to another. ()

08. Visitor. Any person not residing in the United States or a recognized territory, and who is temporarily in the U.S. as a visitor. ()

09. Wild-Caught. Bird originally captured from the wild, no matter how long held in captivity. ()

011. – 099. (RESERVED)

100. MIGRATORY BIRD TREATY ACT AND REGULATIONS.

As provided by Section 36-1102, Idaho Code, no person may take or possess any migratory birds, including raptors, except as provided by the Migratory Bird Treaty Act and implementing regulations (including 50 CFR, Parts 21 and 22), and in accordance with related rules and proclamations promulgated by the Commission. Federal regulations, 50 CFR 21.82 Falconry Standards and Falconry Permitting, 50 CFR 21.85 Raptor Propagation Permits, and 21.76 Rehabilitation permits, govern falconry activities not specifically addressed in these rules. ()

101. TAKING WILDLIFE BY FALCONRY.

Idaho and federal laws regulating taking of wildlife, including possession of appropriate licenses, tags, permits, stamps, and validations; seasons and limits; and possession of wildlife apply to any species taken by falconry. ()

102. FALCONRY PERMIT.

01. Falconry Permit. No person may possess, capture, or transfer, any raptor for the purpose of falconry, or use a raptor for taking other wildlife, unless that person has an Idaho Falconry Permit. Idaho Falconry Permits are not transferable to another person. ()

02. Permit Classification. Three (3) classes of Idaho Falconry Permit are available: Apprentice, General, and Master. Only holders of Master Falconry permits are eligible to obtain Eagle Falconry or Peregrine Capture permits. Permits may be obtained by completing application on a form prescribed by the Department. Permit issuance is subject to the Department's verification the applicant meets federal age, experience, and other prerequisites for the respective permit class. Passage of the Idaho Falconry Examination administered by the Department by a score of at least eighty percent (80%) is a permit prerequisite for persons who have not held an Idaho falconry permit or equivalent authorization within the past five (5) years, or who are a new U.S. resident or visitor. The numbers and species authorized for possession by each class of Idaho Falconry Permit are subject to federal restrictions. ()

03. Exemption for Temporary Use. Nonresident falconers who do not intend to become Idaho residents, who have valid authorization from a federal, tribal, or another state, territory, or country's agency equivalent to an Idaho Falconry or federal Raptor Propagation Permit, may temporarily import from another state, possess, or transport raptor(s) listed under such authorization: ()

a. For not more than thirty (30) days in a calendar year, without purchasing an Idaho Falconry Permit. ()

b. For more than thirty (30) days in a calendar year, provided they have passed the Idaho Falconry Examination administered by the Department within the past five (5) years with a score of at least eighty percent (80%) and obtain a Temporary Idaho Falconry Permit (which is valid for up to four (4) months, and may be renewed). ()

04. Falconers Moving to Idaho. Any nonresident falconer moving into Idaho who intends to become an Idaho resident must: obtain an Idaho Falconry Permit within thirty (30) days of such move; provide signed verification of intent to become an Idaho resident; and surrender any equivalent permit issued by another state. The Department will determine the appropriate class of Idaho Falconry Permit equivalent to the non-Idaho authorization held by the falconer, based on the documentation provided in the permit application. ()

103. INTERNATIONAL IMPORT.

No person may import into Idaho a raptor originating from a foreign country without first obtaining an Idaho Wildlife Import Permit, and complying with federal laws for raptor importation or pet passports under the Conference on International Trade in Endangered Species. ()

104. – 149. (RESERVED)

150. CAPTURE OF WILD RAPTORS.

01. Capture Permits. No person may capture a raptor from the wild unless that person has a valid Idaho Falconry Permit; or is a nonresident who has both: an equivalent falconry authorization from a federal, state, territorial, or tribal authority; and an Idaho Nonresident Falconry Capture Permit (valid on a calendar year basis). ()

02. Approved Species and Limitations. The Commission, pursuant to Section 36-105 (3), Idaho Code, may establish seasons, geographic areas, and limits for capture of wild raptors by proclamation, including limitations on permits available to nonresidents. ()

a. No person may capture or possess any wild-caught bald or golden eagle, any raptor classified under federal or state law as threatened or endangered, or any peregrine falcon without obtaining an individual species-specific capture/possession permit from the Department in addition to complying with federal permit regulations and limits. Bald eagles may not be used for falconry. ()

b. Subject to federal restrictions for the holder's permit class, an Idaho Falconry Permit authorizes the holder to capture (with subsequent possession) not more than a total of two (2) wild raptors each calendar year, which may be adult American kestrels or great horned owls; or immature raptors of species that are not referenced in the preceding Subsection 02.a. or that are otherwise closed or limited by Commission proclamation. ()

c. Non-resident falconers intending to capture any wild Idaho raptor using authorization from a non-Idaho Falconry Permit/Authorization are eligible to purchase only one (1) Nonresident Falconry Capture Permit for each calendar year and are authorized to only capture and possess the species of raptor specified on the permit. ()

d. A nonresident who successfully captures a raptor for intended removal from Idaho must notify the Department Regional Office of the capture location before transporting the raptor out of Idaho, not later than ten (10) days after capture. ()

03. Approved Capture Dates. ()

a. Immature raptors open to capture may be captured year-round. ()

b. American kestrels and great-horned owls that are one (1) year of age or older are only open to capture from August 1 through the last day of February. ()

151. – 159. (RESERVED)

160. CAPTIVE PROPAGATION PERMIT.

No person may propagate raptors in captivity, or take, possess, or transfer any raptor, raptor egg, or raptor semen for propagation purposes without a valid federal Raptor Propagation Permit. Holders of a federal Raptor Propagation Permit may only sell, purchase and barter raptor eggs and semen produced and originating from raptor propagation or captive breeding programs under valid permit. ()

161. TRANSFER OR SALE.

01. Lawfully Obtained. No person may sell, purchase, or barter any raptor or parts thereof, or possess raptors or parts unless the bird or parts have been lawfully obtained. ()

02. Captive-bred. Only live captive-bred raptors banded or micro-chipped in compliance with Section 400 of this rule and 50 CFR 21.82 may be sold, purchased or bartered. Any party to the transaction must hold a valid state, federal, tribal, territory or another country's Falconry or Raptor Propagation Permit. ()

03. Transfers. ()

a. Resident falconers/captive breeders may not transfer any raptor wild-caught in Idaho to a nonresident unless they obtain an Idaho Wildlife Export Permit from the Department. ()

b. With Department approval, wild-caught raptors, possessed less than two (2) years from date of capture, that have been injured and can no longer be flown for falconry purposes, as determined by a veterinarian or raptor rehabilitator, may be transferred to a federal Raptor Propagation Permit. ()

04. Temporary Care. An authorized person may temporarily care for the raptor of another in compliance with federal regulations. ()

162. – 199. (RESERVED)

200. FACILITIES AND INSPECTIONS.

01. Appropriate Holding Facilities. No person may begin possession of any raptor(s) under authority of an Idaho Falconry Permit or Propagation Permit unless the Department has inspected holding facilities and equipment to verify compliance with federal (50 CFR 21.82) and Idaho standards. Appropriate facilities may be indoor, including a personal residence, outdoor falconry facilities, or a combination of both. Persons changing the location of raptor holding facilities to any physical address other than that recorded on the Falconry permit must notify the Department before or within five (5) business days of any such move. ()

02. Temporary Housing. The Department has discretion to authorize temporary housing for not more than one hundred twenty (120) days. ()

03. Inspections. All raptors, facilities, equipment, falconry, and captive propagation records are subject to reasonable inspection during business hours in the presence of the permit holder or facility owner, or as arranged with the permit holder. ()

201. – 299. (RESERVED)

300. RAPTOR HACKING AND REHABILITATION.

01. Hacking. Idaho Falconry Permits authorize the holder to conduct hacking, subject to federal laws and landowner permission. ()

02. Rehabilitation. Persons with valid General or Master Falconry permits may assist the Department, or Department-licensed raptor rehabilitators, with rehabilitation activities, provided the taking of any raptor into possession for rehabilitative conditioning or training is pre-approved by the appropriate Department Regional Office. ()

301. – 349. (RESERVED)

350. EXEMPTION FROM RELEASE RESTRICTIONS.

Permanent release of wild-caught raptors of species native to Idaho by Idaho Falconry permit holders complying with 50 CFR are exempt from release restrictions of IDAPA 13.01.10.200, “Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife.” ()

351. – 399. (RESERVED)

400. RAPTOR BANDING AND RADIO-TRANSMITTERS.

Falconers and captive breeders must use bands, microchips, or radio-transmitters, singly or in combination, that comply with federal regulations (50 CFR 21.82) for any raptor possessed. ()

401. – 499. (RESERVED)

500. REPORTING.

A person owning or otherwise responsible for a raptor must complete and submit a Form 3-186A (federal Migratory Bird Acquisition and Disposition Form) into the United States Fish and Wildlife Service electronic records database not later than ten (10) days after any raptor is acquired, captured, re-captured, transferred, lost, escaped, stolen, released, banded, re-banded, micro-chipped, or deceased. ()

501. – 599. (RESERVED)

600. TRAINING WITH CAPTIVELY PROPAGATED GAME BIRDS.

IDAPA 13.01.10.500, “Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife,” applies to anyone who possesses, releases, or uses artificially propagated game birds for field training raptors. ()

601. – 799. (RESERVED)

800. REVOCATION.

In addition to penalties set forth in Chapter 14, Title 36, conviction of a violation of these rules is grounds for revocation of an Idaho falconry permit or denial of any pending applications for an Idaho falconry permit, and corresponding seizure of raptor(s) identified in the permit. ()

801. – 999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME
13.01.18 – RULES GOVERNING FEEDING OF WILD CERVIDS
DOCKET NO. 13-0118-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking. The action is authorized pursuant to Sections 36-104, 36-105, and 36-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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

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

This rule is being presented for authorization as part of the IDFG plan to review each rule chapter every 5 years. This rulemaking relates to criteria for determining emergencies warranting agency feeding of wild cervids (including wild elk, deer, and pronghorn), and restrictions on private feeding of wild cervids. Consistent with the Governor's [Executive Order 2020-01](#): Zero-Based Regulation, the agency has revised current rule language to improve clarity and reduce duplication.

IDFG and the Idaho State Department of Agriculture (ISDA) have evaluated the potential to consolidate regulation of private feeding of wild cervids under IDFG's authority in this rule chapter, such that IDAPA 02.04.25, "Rules Governing Private Feeding of Big Game Animals," may be repealed, as proposed concurrently in this bulletin under Docket No. 02-0425-2201.

This proposed rulemaking includes changes to integrate current IDFG and ISDA restrictions into a single rule chapter under IDFG's authority to regulate the feeding of wildlife, to continue protection of the health of livestock, domestic cervids, domestic bison, and wildlife. For example, the proposed rule specifically identifies geographic areas identified in ISDA's current rule to prevent brucellosis transmission between wildlife and livestock. IDFG proposes to change rule wording (previously "pronghorn, elk, and deer") to distinguish "wild cervids" managed under IDFG authority from "domestic cervids" regulated under ISDA authority. The agency also proposes to present the statement of rule intent in the cover sheet published in the Administrative Code, instead of in the rule chapter itself as done currently. The rule also incorporates language related to the Commission's management of Chronic Wasting Disease in wild cervids.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, page 25](#) under Docket No. 13-0118-2201. No persons identified themselves as interested in participating in negotiated rulemaking.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not Applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions about the proposed rules, contact Tricia Hebdon, Assistant Chief of Wildlife, 208-287-2704.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 24th day of August, 2022.

Amber Worthington Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25 Boise, ID 83707
Phone (208) 334-3771
Fax (208) 334-4885
Email: rules@idfg.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0118-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

13.01.18 – RULES GOVERNING FEEDING OF WILD CERVIDS

000. LEGAL AUTHORITY.

Sections 36-104, 36-105 and 36-111, Idaho Code. ()

001. SCOPE.

These rules govern Department and private feeding of wild cervids. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. CWD Management Zone. Chronic Wasting Disease Management Zone designated by the Commission under IDAPA 13.01.10.150. ()

02. DSA. Designated Surveillance Area for brucellosis designated by ISDA order or rule. ()

03. ISDA. Idaho State Department of Agriculture. ()

04. Supplemental Feed. Harvested hay, grain, or straw, or feed pellets. ()

05. Wild Cervids. Deer, elk, or other members of the family Cervidae not owned by a person. ()

011. – 099. (RESERVED)

100. EMERGENCY FEEDING CRITERIA.

01. Declaration of Feeding Emergency. The Department may declare a feeding emergency if one (1) or more of the following criteria are met: ()

a. Actual or imminent threat of depredation to private property. ()

- b. Threat to public safety, including traffic hazards. ()
- c. Excessive mortality that would affect herd recovery. ()
- d. Limited or unavailable winter forage caused by fire or weather. ()

02. Additional Guidelines. Regional Supervisors may develop additional emergency feeding guidelines within the listed criteria, based on disease transmission risk, local conditions, and local public input. ()

101. FEED STOCKPILES.

The Department has identified locations for stockpiling emergency feed where it is impractical and cost-prohibitive to purchase and transport feed after snowfall. The Commission and Director declare stockpile maintenance constitutes a feeding emergency and authorize expenditure of funds for stockpile maintenance. ()

102. – 199. (RESERVED)

200. PRIVATE FEEDING OF WILD CERVIDS.

01. Private Feeding. It is unlawful to purposely or knowingly provide supplemental feed to wild cervids within any CWD Management Zone, within any county partially or entirely within any DSA, or within Clark, Madison, or Jefferson county east of Interstate 15, or in violation of any Commission, Department, or ISDA order, except supplemental feeding conducted or authorized by the Department. ()

02. Incidental Grazing. Incidental grazing by wild cervids on private rangeland forage, standing agricultural crops, or crop residue left on the ground following typical harvest practices does not violate this section. ()

03. Incidental Feeding. Incidental feeding of wild cervids during the normal practice of providing feed to livestock does not violate this section, provided the owner or operator of the premises feeding livestock cooperates with the Department to facilitate conducting wild cervid management activities to avoid feeding wild cervids. ()

201. – 999. (RESERVED)

**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING**

15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

DOCKET NO. 15-0102-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5003 and 39-5312, Idaho Code.

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

15.01.02 – Rules Governing Adult Protective Services Programs
Topic: 15.01.02 – Rules Governing Adult Protective Services Programs
Time: Oct 18, 2022 10:00 AM Mountain Time (US and Canada)
<p>Join from the meeting link https://us06web.zoom.us/j/84127668389?pwd=enVSUG5wcDk5K3d2cnN2SEoySWlxQT09</p> <p>Meeting ID: 841 2766 8389 Passcode: 830434 One tap mobile +13462487799,,84127668389#,,,,*830434# US (Houston) +14086380968,,84127668389#,,,,*830434# US (San Jose)</p> <p>Dial by your location +1 346 248 7799 US (Houston) +1 408 638 0968 US (San Jose) +1 669 444 9171 US +1 669 900 6833 US (San Jose) +1 719 359 4580 US +1 253 215 8782 US (Tacoma) +1 646 876 9923 US (New York) +1 646 931 3860 US +1 301 715 8592 US (Washington DC) +1 309 205 3325 US +1 312 626 6799 US (Chicago) +1 386 347 5053 US +1 564 217 2000 US</p> <p>Meeting ID: 841 2766 8389 Passcode: 830434</p> <p>Find your local number: https://us06web.zoom.us/j/84127668389?pwd=enVSUG5wcDk5K3d2cnN2SEoySWlxQT09</p>

The meeting will be held via web conferencing in order to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders.

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 rules are being presented for authorization as part of the Idaho Commission on Aging's plan to review each rule every 5 years under [Executive Order 2020-01, Zero-Based Regulation](#). The Commission seeks to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify language. The Idaho Commission on Aging intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

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

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022 Idaho Administrative Bulletin, [Volume 22-3 page 14](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bettina Briscoe, 208-577-2858.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this August 26, 2022.

Judy B. Taylor
Director
Idaho Commission on Aging
6305 Overland Road Suite 110
Boise, ID 83709
Phone: (208) 334-3833

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0102-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

000. AUTHORITY.

Under authority of Sections 67-5003 and 39-5312, Idaho Code, the ICOA adopts the following rules. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.02, "Rules Governing Adult Protective Services Programs." ()

02. Scope. These rules relate to the authority and responsibilities of Providers to administer adult protective services. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

Any item not specifically defined below has the same meaning as those defined in Idaho Code Title 39 Chapter 53 “Adult Abuse, Neglect, and Exploitation Act” or IDAPA 15.01.01, “15.01.01, “Rules Governing Senior Services and Older Americans Act Programs.” ()

01. Adult Protective Services (APS). The legal and bureaucratic systems and protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive, and preventative services necessary to reduce or eliminate risk of harm. ()

02. Provider. An Area Agency on Aging or a person or entity capable of providing APS, including duly authorized agents and employees. ()

011. -- 019. (RESERVED)

020. POLICY STATEMENT.

The ICOA is charged by statute to provide APS services to ensure the vulnerable adult population in Idaho is protected from abuse, neglect, and exploitation. Protective services will be provided that are the least restrictive to personal freedom and ensure the maximum independence of individuals served. In protecting the vulnerable adult population, APS may also provide assistance to care givers experiencing difficulties in maintaining or supporting a vulnerable adults. ()

021. ADMINISTRATIVE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, the ICOA will administer APS through contracts with Area Agencies on Aging. ()

022. PROVISION OF SERVICE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, each Provider assumes all responsibilities cited in Title 39, Chapter 53, Idaho Code. ()

01. Direct Provision of Service. Area Agencies on Aging will administer APS as a direct service or may subcontract the service to another Provider at the sole discretion of the Administrator. ()

02. Contracts. Each Provider must administer APS pursuant to contracts delineating the duties and obligations of the Provider in the APS program. ()

03. Provider Guidance: Provider guidance is developed, modified, and updated by the ICOA with input from appropriate stakeholder groups and approved by the Administrator. Guidance may be modified to adhere to state or federal law or regulations. Guidance may include manuals, training, standardized forms and assessment tools or other documentation as necessary. ()

04. Court Visitors. Providers shall not serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an investigation. ()

05. Confidentiality. All records relating to a vulnerable adult and held by a Provider are confidential and shall only be divulged as permitted pursuant to Idaho Code Sections 39-5307 and 39-5308 and Federal Law, whichever is more restrictive. ()

023. -- 030. (RESERVED)

031. INVESTIGATIVE REQUIREMENTS.

01. Review of Allegations. Upon receipt of a report of abuse, neglect, or exploitation the Provider shall conduct a review of the allegations of such report to determine whether: ()

a. The report was required to be made pursuant to Section 39-5303, Idaho Code; ()

b. An emergency exists; and ()

c. In cases involving resident-to-resident contact to determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff is unable to remedy through reasonable efforts. ()

02. Need for Investigation. If, based on its review, the Provider determines that a report involves a facility, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the Provider shall immediately refer the report to the Department. If, based on its review, the Provider determines that a report involving resident-to-resident contact was exempted from reporting by Section 39-5303, Idaho Code, no further investigation need be conducted on such report. The Provider shall investigate all other reports. ()

03. Vulnerability Determination. Upon investigating a report, the Provider shall determine whether an alleged victim is vulnerable. If the alleged victim is determined to be vulnerable the Provider shall continue the investigation to determine if the report is substantiated or unsubstantiated. If the alleged victim is not vulnerable the investigation shall be closed; however, the Provider may provide a referral to Information and Assistance, Case Management, the Ombudsman, law enforcement or other appropriate entity for investigation and resolution. ()

04. Investigative Determinations. The Provider shall make one (1) of two (2) investigative determinations upon completion of an APS investigation: ()

a. Substantiated. A report of abuse, neglect, or exploitation of a vulnerable adult by another individual is deemed substantiated when, based upon limited investigation and review, the Provider perceives the report to be credible. A substantiated report shall be referred immediately to law enforcement for further investigation and action. Additionally, the name of the individual against whom a substantiated report was filed shall be forwarded to the Department for further investigation. In substantiated cases of self-neglect, the Provider shall initiate appropriate referrals for supportive services with the consent of the vulnerable adult or his legal representative. ()

b. Unsubstantiated. If a report is unsubstantiated, but the Provider determines that the vulnerable adult has unmet service needs, the Provider shall initiate appropriate referrals for supportive or prevention services with consent of the vulnerable adult or their legal representative. ()

05. Caregiver Neglect. In investigating a report of caregiver neglect, the Provider shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the Provider shall make every effort to assist the informal primary caregiver in accessing available social, supportive or prevention services necessary to reduce the risk to the vulnerable adult. ()

032. -- 999. (RESERVED)

**IDAPA 15 – OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**15.04.01 – RULES OF THE DIVISION OF HUMAN RESOURCES
AND IDAHO PERSONNEL COMMISSION**

DOCKET NO. 15-0401-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5309, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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 agency considered its continued efforts to clarify and streamline rules to align with the Red Tape Reduction Act and HR Modernization. Minor housekeeping edits were included with the intent to make the rules consistent with recent statutory changes, simplify existing language, and reduce or eliminate unnecessary restrictions which have been addressed in statute.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

FISCAL IMPACT: This rulemaking is not anticipated to have any fiscal impact on the state's General fund or any dedicated fund or federal fund because the changes are only verbiage in nature.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the timing and window of opportunity for rulemaking for edits of language.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rules, contact Michelle Peugh at michelle.peugh@dhr.idaho.gov or (208) 854-3073.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 20th day of September, 2022.

Lori A. Wolff
Administrator
304 North 8th Street
P.O. Box 83720
Boise, Idaho 83720-0066
Lori.Wolff@dhr.idaho.gov
Phone: (208) 334-2263
Fax: (208) 854-3088

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0401-2201
(Only Those Sections With Amendments Are Shown.)

010. DEFINITION.

Each of the terms defined in these rules have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (3-31-22)

01. Administrative Leave. Temporary paid leave from a job assignment where pay and benefits remain intact. (3-31-22)

02. Appeal. Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-31-22)

03. Appellant. An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-31-22)

04. Appointment, Limited. The appointment of a person to a classified position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-31-22)

05. Appointment, Permanent. The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Title 67, Chapter 53, Idaho Code, and the rules of the Division and Idaho Personnel Commission. (3-31-22)

06. Appointment, Probationary. The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (3-31-22)

~~**07. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-31-22)~~

~~**07. Base Pay.** The rate paid for performing a job, excluding bonuses, shift differentials, overtime or other compensation premiums. (3-31-22)~~

~~**08. Classified Service.** That body of positions in state agencies subject to Title 67, Chapter 53, Idaho Code, as defined therein and excludes temporary, *project exempt*, and nonclassified appointments. (3-31-22)()~~

~~**09. Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules, Division and Idaho Personnel Commission rules and policies, and agency policies governing employee pay. (3-31-22)~~

~~**10. Compensation Schedule.** The pay grades established by the Division and associated rates of pay. (Ref. Section 67-5309B, Idaho Code) (3-31-22)~~

~~**11. Consultant.** An independent contractor who provides professional or technical advice, counsel, or service. (Ref. Rule 050) (3-31-22)~~

~~**12. Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (3-31-22)~~

~~**13. Division.** The Idaho Division of Human Resources. (3-31-22)~~

~~154.~~ **Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code) (3-31-22)

~~165.~~ **Employment History.** The information available to the public without the employee's consent in accordance with Section 74-106, Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (3-31-22)

~~176.~~ **Good Cause.** The conduct of a reasonable person in the same or similar circumstances. (3-31-22)

~~187.~~ **Hay Method.** A methodology for establishing the relative value of jobs and used as a dimension of the pay system. (3-31-22)

~~198.~~ **Hiring List.** A hiring list is a subset of a register consisting of the top twenty-five (25) individuals on the register, plus all individuals tied for the twenty-fifth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top twenty-five (25). (3-31-22)

~~2019.~~ **Incumbent.** Any person holding a classified or non-classified position in state service. (3-31-22)

~~240.~~ **Independent Contractor.** Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule 050) (3-31-22)

~~221.~~ **Involuntary Transfer.** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-31-22)

~~232.~~ **Layoff.** An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (3-31-22)

~~243.~~ **Light or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-31-22)

~~254.~~ **Merit Increase.** The advancement of an employee's compensation within a pay grade based upon performance in accordance with Section 67-5309B(3) and (4), Idaho Code. (3-31-22)

~~265.~~ **Merit Increase Matrix.** A pay distribution tool used to advance employee pay based on performance and market data. (3-31-22)

~~276.~~ **Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-31-22)

~~287.~~ **Occasional or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (3-31-22)

~~298.~~ **On-Call Time.** Time when an employee is required to ~~carry a pager, cellular phone, or to leave word at home or with the agency where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes~~ be available if called upon by their agency during hours that are outside of their normally defined work schedule. (3-31-22)()

~~3029.~~ **Pay Line Exception.** A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (3-31-22)

~~340.~~ **Permanent Employee.** An employee in the classified service who has successfully completed

entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (3-31-22)

341. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (3-31-22)

342. Reduction in Pay. A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-31-22)

343. Register. A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. ~~An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established.~~ (3-31-22)()

344. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. (3-31-22)

345. Respondent. The party whose interests are adverse to those of the appellant. (3-31-22)

346. Salary Equity Increase. The advancement of an employee's compensation within a pay grade based upon factors such as market demand, compression within the agency or classification, or inequities, and the employee's performance, in accordance with Section 67-5309B(3), Idaho Code. (3-31-22)

347. Suspension. An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (3-31-22)

348. Termination. The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 152. (3-31-22)

~~4039.~~ **Transfer.** A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-31-22)

~~410.~~ **Underfill.** Administrator-approved appointment to a position established at a higher classification while being compensated at a lower pay grade during completion of a training plan. (3-31-22)

421. USERRA. Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (3-31-22)

~~432.~~ **Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

072. OPERATION OF COMPENSATION PLAN.

01. Authorized Pay Rate. No employee in the state classified service will be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification. (3-31-22)

02. Starting Salary. The starting salary for a new appointee may be anywhere within the pay grade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (3-31-22)

03. Payline Exceptions. Temporary assignments to a new pay grade may be made by the administrator. Such assignments apply to an entire classification for the purpose of recruitment or retention and will be reviewed annually to determine the need for continuance. (3-31-22)

04. Salary Equity Increases. An appointing authority may, with approval by the administrator, advance an employee's salary within a pay grade based upon factors such as market demand, to address compression within an agency or classification, or inequities. In accordance with Section 67-5309B(3), Idaho Code, the employee's performance must be considered. (3-31-22)

05. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off (Ref. Rules 101.01 and 146) will be paid in the current pay grade for the classification to which reappointed or at the same payrate the employee received immediately preceding layoff, whichever is greater, but not to exceed the maximum of the current pay grade. (3-31-22)

06. Salary Upon Transfer. (3-31-22)

a. A transfer between agencies (Ref. Rule 125) in the same classification or one of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (3-31-22)

b. If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-31-22)

07. Salary Upon Reinstatement. Unless related to reemployment after a lay-off, the salary of a reinstated employee (Ref. Rule 124) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. ~~(3-31-22)~~ ()

08. Salary Upon Downward Reassignment. When a classification is reassigned downward the employee's salary will be protected to the maximum within the new pay grade. (3-31-22)

09. Salary Upon Return from Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Section 65-508, Idaho Code, and USERRA will be paid at the comparable rate in the current pay grade for the classification to which he was assigned prior to leaving for military service. (3-31-22)

073. CALCULATION OF PAY.

01. Standard Calculation of Pay. For other than police, correctional officers, or fire employees, pay is calculated in the following order: (3-31-22)

- a.** Holiday pay; (3-31-22)
- b.** All hours worked on a holiday as overtime; (3-31-22)
- c.** All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work; (3-31-22)
- d.** Vacation, sick and other paid or unpaid leaves; and (3-31-22)
- e.** All remaining hours worked at the employee's regular rate of pay. (3-31-22)

02. Shift Differential. Additional compensation paid to employees (including temporary or part-time employees) who work specific, designated hours. Shift differential is paid in addition to any other compensation. (Ref. Sections 67-5302(20) and 67-5328, Idaho Code; Shift differential may be awarded in amounts up to and including twenty-five percent (25%) of hourly rates, based on local market practice for similar jobs. (Ref. Section 67-5309(u), Idaho Code. (3-31-22)

03. Calculation of Pay for Police, Correctional Officers, and Fire Employees. Police, correctional officers, and fire employees on a twenty-eight (28) day work schedule will be compensated as described in Rules 073.01 and 073.02, except that overtime will be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek. (3-31-22)

04. Holiday Pay Calculation. (3-31-22)

a. Paid time off for holidays is a benefit and must be allocated in a substantially similar manner to all employees in the same classification. (3-31-22)

b. A full-time employee will receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee will receive eight (8) hours of holiday pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-31-22)

c. A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-31-22)

d. To avoid inequities with regard to the Family Medical Leave Act (FMLA) during holiday weeks, if an employee is recording all hours for the week as Family Medical "Leave Without Pay," no hours will be coded on the holiday. Therefore, the holiday will not be counted toward the twelve (12) weeks of family medical leave. (3-31-22)

e. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-31-22)

f. Schedules resulting in holiday time off in excess of eight (8) hours may be approved by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks or otherwise adjust work schedules to ensure internal consistency. (3-31-22)

05. Reduction of Salary. The salary of an employee receiving more than the lowest rate of the pay grade for his classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Rule 190. (3-31-22)

06. Salary Administration. Each agency must develop a compensation plan designed to consider recruitment and retention and ensure pay equity within the organization. (Ref. Section 67-5309B, Idaho Code) (3-31-22)

07. Salaries for Temporary Appointments. Except as provided for in these rules, salaries for employees hired under temporary ~~and project exempt~~ appointments will be governed by Section 59-1603, Idaho Code. ~~(3-31-22)~~ ()

074. ASSIGNMENT OF HAY EVALUATION POINTS.

01. Assignment to Pay Grade. Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (3-31-22)

02. Guide Charts. The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (3-31-22)

03. Factoring Benchmarks. The established factoring benchmarks shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (3-31-22)

04. Factoring Process. Hay evaluation points shall be assigned to a classification ~~through the~~

~~following methods, which may be used separately or in combination with the others:~~ (3-31-22)

~~a. Factoring Session. The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference.~~ (3-31-22)

~~05. Approval. After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division has final approval of the Hay evaluation points assigned to each classification.~~ These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (3-31-22)()

(BREAK IN CONTINUITY OF SECTIONS)

084. ANNOUNCEMENT OF RECRUITMENT.

01. Distribution of Announcements. The announcement of each open-competitive recruitment will be made through an internet application system and posted to other locations determined necessary by the administrator to develop a register of eligibles. If the open competitive recruitment has been requested by the appointing authority in lieu of a promotional recruitment, it will be his responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that agency prior to its expiration date. (Ref. Rule 169) (3-31-22)()

02. Posting of Promotional Announcements. The announcement for each promotional recruitment will be supplied to the appointing authority of each affected agency. It will be his responsibility to post, electronically communicate, or otherwise distribute such announcement so it can be seen by all employees in the agency prior to the expiration date. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.

01. Designation of Examiners. The examinations will be conducted and rated by persons designated by the administrator. (3-31-22)

02. Scoring of Examinations. Each examination will be rated for final scores on the basis of one hundred (100) point maximum. The Division will use appropriate statistical and professional techniques and procedures in determining passing points and final scores. (3-31-22)

03. Veterans' Preference. (3-31-22)

a. Veterans' and disabled veterans' preference points, when applicable under state law, will be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Five (5) percentage points will be added to the earned rating of any veteran, as defined in Section 65-203, Idaho Code, and the widow or widower of any veteran, as defined in Section 65-203, Idaho Code, as long as the widow or widower remains unmarried. Pursuant to Section 65-504, Idaho Code, ten (10) percentage points will be added to the earned rating of any disabled veteran, as defined in Section 65-502, Idaho Code, or to the unmarried widow or widower of the same, or the spouse of any eligible disabled veteran who cannot qualify for any

public employment because of a service-connected disability. Employment registers will be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from the merit system will be placed on the register in accordance with their augmented rating. (Ref. Sections 65-506 and 67-5309(f), Idaho Code) (3-31-22)

- b. Veterans' and disabled veterans' preference points must not be used to achieve a passing score. (3-31-22)

04. Failing Score. Failure in any part of the examination may disqualify the applicant in the entire examination and from having his name placed on the register. Final scores will be computed in accordance with weights assigned the individual factors in the total examination. (3-31-22)

~~**05. Waiver of Examination.** Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received from applicants meeting minimum qualifications for a position announcement and there is no existing register, the announced examination may be waived by the administrator. These applicants will be eligible for appointment and their placement on the register will take into account veterans' preference. When using registers developed in this manner, appointing authorities will provide the opportunity for placement interviews for each applicant on the register. (3-31-22)~~

065. Examination Upon Reclassification. An employee occupying a position which is reclassified (Ref. Rule 067.01) may be required at the discretion of the administrator to pass an examination for the classification to which reclassified. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~**III. ADEQUATE REGISTERS.**~~

~~A register with at least five (5) eligible candidates is adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may hire an eligible candidate listed on an inadequate register or request specialized recruitment. (3-31-22)~~

~~1121. -- 118. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

120. LIMITED SERVICE APPOINTMENTS.

01. Designation. Classified positions expected to be of limited duration due to funding or nature of the position or project must be identified and designated in advance of announcement. (3-31-22)

02. Permanent Status and Expedited Layoff. Employees appointed under limited-service appointments have permanent classified status after successful completion of probation. These employees have the same rights and responsibilities as other permanent employees but may be subject to expedited layoff pursuant to Rule 140.01.c. (3-31-22)

03. Limited Service Agreement. Appointing authorities making limited-service appointments must prepare, no later than the date of appointment, a written agreement for signature of both the employee and appointing authority describing the non-career nature of the appointment, potential for layoff, and the duration the employee may expect to work. Renewals and updated agreements are required every two (2) years. A copy of the agreement must be kept ~~by the appointing authority~~ **in the employee's personnel file.** (3-31-22)()

(BREAK IN CONTINUITY OF SECTIONS)

123. ~~PROJECT EXEMPT APPOINTMENTS (NON-CLASSIFIED): (RESERVED)~~

~~Project exempt appointments are non-classified positions and are limited to the length of the project grant or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is shorter. (Ref. Section 67-5303(m), Idaho Code) (3-31-22)~~

124. REINSTATEMENTS.

01. Eligibility. ~~As determined by the administrator, a~~ **△** current or former employee will be eligible for reinstatement to a classification in which he held permanent status, or if deleted its successor, or to another classification of equal or lower pay grade under the following conditions (salary treatment is covered by Rule 072.06). (3-31-22)()

a. Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (3-31-22)

b. The current or former employee must have separated from the classification for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (3-31-22)

c. The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (3-31-22)

02. Reinstatement Prohibited. Reinstatement of a current or former employee is not permissible as long as there is an agency register (Ref. Rule 101.01) for that classification with names of eligibles who have reemployment preference status. (3-31-22)

03. Examination. ~~The administrator may require a~~ **△** current or former employee **may be required** to pass an examination for the classification to which reinstatement is desired. (3-31-22)()

04. Probationary Period. An appointing authority may negotiate for a probationary period as a condition of reinstatement except where prohibited. (Ref. Rules 124.05 and 145.01). (3-31-22)

05. Return from Military Duty. An employee returning from military leave without pay (Ref. Rule 250.04) who is relieved or discharged from military duty under conditions other than dishonorable will be, upon application, reinstated in his former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-508, and 65-511, Idaho Code, USERRA, or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made in accordance with the provisions of USERRA. Salary treatment is covered by Rule 072.09. (3-31-22)

125. TRANSFERS.

01. Authority to Transfer. An appointing authority may transfer an employee at any time from one position to another in the same classification. (3-31-22)

02. Transfer Within Pay Grade. An appointing authority may transfer an employee from a classification in which he holds permanent status to another classification allocated to the same pay grade for which the employee meets the minimum qualifications. (3-31-22)

03. Probationary Period. An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. Voluntary probation is not allowed for intra agency transfers. (Ref. Rule 150) (3-31-22)

04. Limitation. Transfers will not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 147. (3-31-22)

05. Transfer Between Agencies. An employee is eligible for transfer between agencies in the same

classification in which he holds permanent status or to another classification in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave will be transferred in accordance with Rules 230.04 and 240.02. Salary treatment is covered by Rule 072.06. (3-31-22)

06. Restriction. Transfer of an employee between agencies is not permissible as long as there is a agency register with reemployment preference status (Ref. Rule 101.01) for the classification in the agency to which transfer is desired with names of eligibles who are willing to accept reemployment. (3-31-22)

07. Examination. ~~The administrator may require a~~ An employee transferring between classifications ~~may be required~~ to pass an examination for the classification to which transfer is desired. (3-31-22)()

08. Involuntary Transfer. Notice and an opportunity to be heard must be given to any employee subject to an involuntary transfer. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

129. ACTING APPOINTMENT TO A POSITION.

01. Conditions for Acting Appointment. At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a classification of higher pay grade within his own agency in an acting capacity whenever: (3-31-22)

a. The incumbent of the position in the higher classification is on authorized leave of absence; or (3-31-22)

b. A vacancy exists and there is no agency register with reemployment preference status (Ref. Rule 101.01) with names of eligibles who are willing to accept reemployment, nor adequate agency register for the classification. (3-31-22)

02. Minimum Qualifications. To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (3-31-22)

~~**03. Notification.** Appointing authorities must notify the administrator of each acting appointment no later than the effective date of the appointment unless an exception is specifically authorized by the administrator. (3-31-22)~~

043. Effective Date. The effective date of each acting appointment may be retroactive to the beginning of the pay period during which approval is granted. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

141. CALCULATION OF RETENTION POINTS.

There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations, classified credited state service, and veterans' preference as described in Rule 141.03. The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

Exemplary Performance	-	.100 points
Solid Sustained Performance	-	.075 points
Achieves Performance Standards	-	.050 points
Does Not Achieve Performance Standards	-	.0 points

(3-31-22)

01. No Performance Evaluation on File for a Twelve-Month Period. All credited state service for which there is no performance evaluation will receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (3-31-22)

a. ~~Grace period. Supervisors have thirty (30) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that thirty (30) day time frame, Completing annual evaluation.~~ The evaluation may be written to cover the **prior** two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-31-22)()

b. Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-31-22)

02. Calculation of Retention Points Since Last Evaluation. The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points are calculated in conformance with Rule 141.01. (3-31-22)

03. Veterans' Preference. Veterans as defined in Title 65, Chapter 2, Idaho Code, will receive preference by the addition of retention points equivalent to three (3) years of service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code) (3-31-22)

04. Calculation Date Cutoff. No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (3-31-22)

05. Audit of Retention Points. Each employee is entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor is binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

150. PROBATIONARY PERIODS.

01. Probationary Period Required. Except as provided in Rule 040, every appointment and promotion to a classified position is probationary. (3-31-22)

02. Types of Probationary Periods. The probationary period serves as a working test period to provide the agency an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods: (3-31-22)

a. Entrance probation is the probationary service required of an employee at the time of his original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (3-31-22)

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (3-31-22)

c. Voluntary probation is an agreement between employees and the appointing authority for interagency employment actions such as reinstatement, transfer, or voluntary demotion. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. (3-31-22)

03. Extension of Probationary Period. Upon written request demonstrating good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Extension must occur before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code) (3-31-22)

04. Interruption of Probationary Period. The probationary period in any classification must be completed within a single agency uninterrupted by termination (Ref. Rule 152.02) or dismissal (Ref. Rule 190). An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion. (3-31-22)

05. Temporary Service Credit. At the request of the hiring agency, the administrator will allow temporary service time in a given classification to be used toward fulfilling the entrance probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The temporary duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(*y), Idaho Code, and Rules 122 and 150.01) (3-31-22)

06. Acting Service Credit. At the request of the hiring agency, the administrator will allow acting appointment service time in a given classification to be used toward fulfilling the promotional probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(y), Idaho Code, and Rules 129 and 150.01) (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

152. SEPARATION DURING PROBATION.

01. Notification. If a probationary employee does not serve satisfactorily, the appointing authority must provide the employee and the Division a performance evaluation indicating unsatisfactory performance in order to process the failure to complete probation separation within thirty (30) days after the expiration of the probationary period. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (3-31-22)

02. During Entrance and Voluntary Probation. (3-31-22)

a. An employee who does not serve satisfactorily during the entrance or voluntary probation must first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (3-31-22)

b. Notice to the employee of termination for unsatisfactory service must be made *not later than at least* fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. (3-31-22)

153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.

01. Disciplinary Action. Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. (3-31-22)

02. ~~Intra-Agency~~ During Promotional Probation. If an employee; on promotional probation; does

not meet performance expectations; ~~he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it is considered a voluntary resignation.~~(3-31-22)()

~~03. Inter Agency.~~ (3-31-22)

a. The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. (3-31-22)

b. If no position is available for the voluntary demotion option, the employee may be laid off (Ref. Rules 145 and 147) and may ~~request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or~~ (3-31-22)()

~~i. Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or~~ (3-31-22)

~~ii. Request their name be placed on a register for the classification in the agency where they last held permanent status.~~ (3-31-22)()

c. When reinstatement occurs in the classification they promoted from, ~~in the new agency or the prior agency;~~ the employee's name is removed from reemployment required preference status. (3-31-22)()

(BREAK IN CONTINUITY OF SECTIONS)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview of Procedures. (3-31-22)

a. The due process procedure deals with the disciplinary matters set forth in Section 67-5315(2), Idaho Code, dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the agency. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions may be appealed in accordance with Rule 201. (3-31-22)

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions may not be appealed to the Commission except as authorized by Section 67-5316, Idaho Code. (3-31-22)

02. Establishment of Agency Problem-Solving and Due Process Procedures. Each participating agency must maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and Rule 200. (3-31-22)

03. Eligibility and Time for Filing Under Problem-Solving Procedure. Any classified employee with permanent, or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee must file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the agency is strongly encouraged to waive any time limits. The time limit for filing will be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The agency may accept a filing that is or appears to be filed late. Agency policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. (3-31-22)

04. Elements of the Problem-Solving Procedure. The procedure must contain a statement from the

agency head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement must also provide a means whereby agency representatives can obtain timely authority, if needed, to resolve the matter. The procedure must require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure must provide for such additional levels of management within the employee's chain of command as are appropriate in the agency. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. Timelines must not exceed five (5) working days between each step unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, not to exceed thirty (30) days between each step. The procedure must also inform the employee that he is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited. This procedure does not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1)(4), Idaho Code, and Rule 152). (3-31-22)

05. Filings Alleging Sexual Harassment or Other Illegal Discrimination. Each agency's problem-solving procedure must provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure must expressly prohibit sexual harassment and discrimination. Employees must be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure must designate a specific person or persons to receive and investigate such filings, and require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (3-31-22)

06. Elements of Due Process Procedure. An agency must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, an agency must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice must be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond must not occur later than ~~ten five (105)~~ an extension is approved by the appointing authority working days after the employee has received notice, unless ~~both the employee and agency agree otherwise~~ an extension is approved by the appointing authority in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, must make and implement the agency's decision not later than ~~ten five (105)~~ or for other extenuating circumstances. The extension will be communicated to the employee working days thereafter, excluding days the appointing authority, or designee, is out of the office, ~~unless both the employee and agency agree otherwise~~ or for other extenuating circumstances. The extension will be communicated to the employee in writing. The procedure must inform the employee of his right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code, and; Rules 150 through 153). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision must also be sent to the administrator concurrently. (3-31-22)()

07. Notification. A copy of the approved problem-solving and due process procedures must be furnished and explained to each employee with permanent, or entrance probationary status in the agency concerned. (3-31-22)

~~**08. Assistance to Agencies.** The administrator will assist agencies whenever requested in the development or revision of their agency problem solving and due process procedures. (3-31-22)~~

(BREAK IN CONTINUITY OF SECTIONS)

243. MATERNITY AND PATERNITY LEAVE.

01. Use Of Sick Leave. Pregnancy, child-birth or related medical conditions generally are considered temporary disabilities and are treated as such for sick leave purposes. Maternity and paternity leave are granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. (3-31-22)()

02. Determination of Disability Period. The employee's physician is considered the primary authority in determining the disability period insofar as compensable sick leave is concerned. (3-31-22)

03. Additional Time Off. Maternity and paternity leave preceding and following the time that the person is disabled is leave without pay unless the employee elects to use accrued vacation leave or compensatory time off for overtime. (3-31-22)

04. Discrimination Prohibited. Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-31-22)

05. Adoption and Foster Care. Leave will be granted for adoption and foster care as set forth in the Family and Medical Leave Act. (Ref. Rule 242) (3-31-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.17 – MEDICARE/MEDICAID COORDINATED PLAN BENEFITS
DOCKET NO. 16-0317-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202(b), Idaho Code.

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

Virtual Public Hearing via WebEx
Thursday, October 13, 2022 1:00 p.m. to 3:00 p.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m83d7ae567e6b4e7d4d36f26bef697c53
Join by meeting number Meeting number (access code): 2763 846 7533 Meeting password: rgHtUd9JW54 (74488395 from phones and video systems)
Tap to join from a mobile device (attendees only) +1-415-527-5035,,27638467533#74488395# United States Toll +1-303-498-7536,,27638467533#74488395# United States Toll (Denver) Some mobile devices may ask attendees to enter a numeric password.
Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: This chapter of administrative rule contains no fees.

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:

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 2, 2022, Idaho Administrative Bulletin, ([Vol. 22-3, pp. 16-17](#)).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no incorporations by reference contained in this chapter of administrative rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jennifer Pinkerton at (208) 287-1171.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0317-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)**

16.03.17 – MEDICARE/MEDICAID COORDINATED PLAN BENEFITS

000. LEGAL AUTHORITY.

The Department is authorized to promulgate these rules under Sections 56-202(b), 56-251(2)(c), and 56-255(4), Idaho Code. ()

001. SCOPE.

These rules cover the Medicaid benefit plan option that coordinates and integrates health plan benefits for individuals eligible for and enrolled in both Medicare and Medicaid, referred to as the Medicare/Medicaid Coordinated Plan (MMCP). ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Department. The Idaho Department of Health and Welfare or designee. ()

02. Dual-Eligible. Individuals meeting eligibility requirements under Section 100 of these rules. ()

03. Fully Integrated Dual-Eligible Special Needs Plan (FIDE-SNP). A health plan fully integrating care for dual-eligible participants under a single MAO. ()

04. Idaho Medicaid Plus (IMPlus). A health plan option for certain dual-eligible participants where Medicaid covered services are provided under a managed care organization, under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 076 through 079. ()

05. Evidence of Coverage. The Medicare Advantage Plan contract between the MAO and the participant that explains the covered services, including services under Medicare Parts A, B, and D. ()

06. Medicare Advantage Organizations (MAOs). Insurance companies approved by the Centers for Medicare/Medicaid Services (CMS) to offer Medicare Advantage Plans. ()

07. Medicare Advantage Plan. A private health plan approved by and contracted with CMS to provide Medicare Parts A, B, and D benefits as described in its "Evidence of Coverage." ()

08. Medicare/Medicaid Coordinated Plan (MMCP). FIDE-SNP for certain dual-eligible participants integrating Medicare and Medicaid covered services under one (1) managed care organization. ()

011. -- 099. (RESERVED)

GENERAL PARTICIPANT PROVISIONS
(Sections 100-199)

100. MMCP: PARTICIPANT ELIGIBILITY.
To be eligible to select the MMCP, the participant must meet the following criteria. ()

01. Medicare Eligibility. Be eligible for and enrolled in both Medicare Parts A and B. ()

02. Medicaid Eligibility. Be eligible for medical assistance under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." Eligibility must not be based solely on IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 802. ()

03. Age. Be age twenty-one (21) or older. ()

101. MMCP: PARTICIPANT ENROLLMENT.
To receive services under the MMCP, participants must contact a participating managed care organization and request to enroll in the MMCP. Participation in the MMCP begins the month after the participant signs the application for the Medicare Advantage Plan and MMCP. ()

102. MMCP: PARTICIPANT RESPONSIBILITIES.
Participants who select the MMCP are required to do the following: ()

01. Compliance with MAO Requirements. Comply with all requirements under the MAO's "Evidence of Coverage." ()

02. Provider Notification. Present their: ()

a. MAO-issued card when seeking Medicare-covered services. ()

b. Medicaid card when seeking any Medicaid-covered services under Subsection 300.01 of these rules. ()

03. MMCP Termination. Participants can terminate their MMCP at any time. Coverage continues until the end of the month as determined by Medicare disenrollment requirements. Once disenrolled, participants are automatically reenrolled in fee-for-service Medicaid or the IMPlus plan. ()

103. -- 199. (RESERVED)

MAO CONTRACT REQUIREMENT
(Sections 200-299)

200. CONTRACT REQUIREMENT.

Any MAO seeking to offer MMCP services must operate a FIDE-SNP as approved by CMS and contracted with the Department. ()

201. MAO REIMBURSEMENT.

Each MAO is paid a per member per month rate as defined in the MAO contract. ()

202. -- 299. (RESERVED)

COVERED SERVICES
(Sections 300-301)

300. MMCP: COVERAGE AND LIMITATIONS.

An MMCP is subject to applicable federal managed care requirements. ()

01. MMCP-Covered Services. Include: ()

a. MAO-Covered Services. Under the "Evidence of Coverage," the MAO may limit or expand the scope of services as defined in the "Evidence of Coverage." MAO-covered services, including Medicare Parts A, B, and D benefits, are detailed in the MMCP contract. ()

b. Medicaid-Only Services. Under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," or IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," provided by Medicaid providers that are not MAOs. Medicaid may cover additional services that are not included in the MAO's "Evidence of Coverage." ()

c. Supplemental services unavailable on Medicare or Medicaid. ()

02. Services Excluded from the MMCP. Services not included in the MAO's "Evidence of Coverage" or listed under Subsection 300.01 of this rule are not covered under the MMCP. ()

03. Premiums and Cost-Sharing. Participants will not pay any premiums or cost-sharing when covered under the MMCP, except as described in an approved MMCP contract. ()

301. MMCP BENEFITS: PROVIDER REIMBURSEMENT.

01. Medicaid-Only Service Providers. Providers who only offer Medicaid services must be approved for the MMCP before receiving reimbursement and are subject to the General Provider Provisions under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Approved providers are reimbursed under the methodology in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," related to the Medicaid-only service. ()

02. Medicare Service Providers. Medicare service providers are reimbursed under the methodologies established by the MAO and approved by CMS. MAOs are responsible for participant Medicare cost-sharing as described in the approved MMCP contract. ()

302. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.12 – IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-2201

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-202, Idaho Code.

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

Virtual Public Hearing via WebEx
Thursday, October 13, 2022 10:00 a.m. to 11:30 a.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=ma1d5ab02decab7bf8fd2e930f137a004
Webinar Number: 2763 142 1076
Webinar Password: 5JZjZxS5zU3 (55959975 from phones)
Join by Phone: +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)
Access code: 276 314 21076

Virtual Public Hearing via WebEx
Tuesday, October 18, 2022 10:00 a.m. to 11:30 a.m. (MT)
Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mad392c5aaf1682ae9a2a29067204a106
Webinar Number: 2761 590 1253
Webinar Password: A6Ts44v5wJC (26874485 from phones)
Join by Phone: +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)
Access code: 276 159 01253

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 a federal audit of the Idaho Child Care Program it was determined that Idaho is out of compliance with the following:

1. *Federal law, 45 CFR 98.21(a)(1), related to subsidy eligibility and the proposed changes will bring us into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 3.4.1)*
2. *Federal law, 45 CFR 98.41(a)(1)(vi), related to prevention of Shaken Baby Syndrome, Head Trauma, and Child Maltreatment for children accessing child care, and the proposed changes will bring us into compliance. (Child Care and Development Fund (CCDF) Plan for Idaho FFY 2022-2024 Section 5.3.6)*

This proposed rule is due to the need for more assistance to Idaho families who are struggling to pay for child care costs. Forty-five percent (45%) of Idaho families struggle to meet their basic budget needs, and having help with child care costs allows for more resources to assist with other aspects of family budgeting, as child care costs are often the highest cost for most counties in Idaho, even more so than housing.

The proposed rule increases the federal poverty limit for child care assistance, therefore allowing more Idaho families access to a benefit that would help them cover a portion of their child care bill.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees associated with this chapter of rule.

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 funds being used to implement the proposed changes are federal Child Care and Development Block Grant (CCDBG) funds and such funds are sufficient to meet all proposed costs for the foreseeable future. The funds being used to implement the proposed changes in our automated systems are federal Child Care and Development Block Grant (CCDBG) funds and such funds are sufficient to meet all proposed costs for the foreseeable future.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to align with federal requirements, promote the public health and safety of Idahoans, and confer a benefit to stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no changes that include an incorporation by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ericka Rupp at 208-334-5641.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this 29th day of August, 2022.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5500
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e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0612-2201
(Only Those Sections With Amendments Are Shown.)

070. INCOME LIMITS.

To be eligible for child care assistance, a family's countable income must meet the following *guidelines* using the published Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. (3-17-22)()

01. Income at Application. ~~At the time of application~~ **When applying**, a family's income cannot exceed one hundred ~~thirty~~ **seventy-five** percent (~~130~~**75**%) of ~~the Federal Poverty Guidelines (FPG)~~ for a family of the same size. (3-17-22)()

02. Income During Eligibility Period. During the eligibility period, when a family's countable income exceeds eighty-five percent (85%) of the State Median Income (SMI) for a family of the same size, the family becomes ineligible for child care assistance. (3-17-22)

03. Income at ~~Time of~~ Redetermination. At ~~the time of~~ redetermination, if a family's income exceeds one hundred ~~thirty~~ **seventy-five** percent (~~130~~**75**%) of ~~the Federal Poverty Guidelines (FPG)~~ for a family of the same size, the family may be eligible to receive a graduated phase out of child care assistance. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

103. COOPERATION IN ESTABLISHMENT OF PATERNITY AND OBTAINING SUPPORT.

A natural or adoptive parent, or other individual who lives with and exercises parental control over a minor child who has an absent parent, must cooperate in establishing paternity for the child and obtaining child support **at application and redetermination**. (3-17-22)()

01. Providing All Information. "Cooperation" includes providing all information to identify and locate the non-custodial parent, unless good cause for non-cooperation exists. (3-17-22)

02. Established Case for Custodial Parent. After Child Support Services (~~CSS~~ **CSS**) has established a case for a custodial parent, all child support payments must be sent directly to CSS. If the custodial parent receives child support directly from the non-custodial parent, the custodial parent must forward the payment to CSS for receipting. (3-17-22)()

03. Failure to Cooperate. (3-17-22)

a. ~~Failure to cooperate includes~~ **This includes** failure to complete the non-custodial or alleged parent information or filiation affidavit as requested, failure to sign the limited power of attorney, or evidence of failure to cooperate provided by ~~Child Support Services (CSS)~~. (3-17-22)()

b. When a parent or individual fails to cooperate ~~in establishing paternity and obtaining support~~, the

family is not eligible to participate in the Idaho Child Care Program.

(3-17-22)()

04. Exemptions From Cooperation Requirement Exemptions. The parent or individual will not be required to provide information about the non-custodial or alleged parent or otherwise cooperate in establishing paternity or obtaining support if good cause for not cooperating exists. Good cause for failure to cooperate must be provided.

(3-17-22)()

a. Good cause for failure to cooperate in obtaining support is: (3-17-22)

i. Proof the child was conceived ~~as a result~~ because of incest or forcible rape; (3-17-22)()

ii. Proof the non-custodial parent may inflict physical or emotional harm to the children, the custodial parent, or individual exercising parental control. This must be supported by medical evidence, police reports, or as a last resort, an affidavit from a knowledgeable source; and (3-17-22)()

iii. Substantial and credible proof is provided indicating the custodial parent cannot provide the minimum information regarding the non-custodial parent. (3-17-22)

b. A parent or individual claiming good cause for failure to cooperate must submit a notarized statement to the Department identifying the child for whom the exemption is claimed. ~~The statement must list and~~ the reasons for the good cause claim. (3-17-22)

c. The cooperation requirement will be waived if good cause exists. No further action will be taken to establish paternity or obtain support. If good cause does not exist, the parent will be notified that they are not eligible to receive ~~Idaho Child Care program~~ ICCP benefits, until child support cooperation has been obtained. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

503. COPAYMENTS.

Eligible families, except TAFI families participating in non-employment TAFI activities and guardians of foster children, must pay part of their child care costs. ~~Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs.~~ (3-17-22)()

01. Poverty Rates Provider Responsibility. ~~Poverty rates will be one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. The monthly rate will be calculated by dividing the yearly rate by twelve (12). Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs.~~ (3-17-22)()

02. Calculating Family Payment. Family income and activity for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate or billed costs, whichever is lower, less the co-payment. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

602. REDETERMINATION OF ELIGIBILITY FOR CHILD CARE BENEFITS.

01. Redetermination. The Department will redetermine eligibility for child care benefits at least every twelve (12) months. (3-17-22)

02. Graduated Phase Out. At ~~the time of~~ redetermination, if a household's income exceeds one hundred ~~thirty~~ ~~seventy-five~~ percent (130/75%) of ~~the Federal Poverty Guidelines (FPG)~~ for a family of the same size eligible children may receive a graduated phase out benefit. ~~Graduated phase out benefits are~~ ~~that is~~ limited to twelve

(12) months following the completion of a redetermination ~~as defined in~~ under the Idaho Child Care State Plan. (3-17-22)()

(BREAK IN CONTINUITY OF SECTIONS)

802. HEALTH AND SAFETY REQUIREMENTS.

All providers must comply with the health and safety requirements ~~listed in Subsections 802.01 through 802.13 of~~ under this rule. All providers must agree to an annual, unannounced health and safety inspection, ~~with the exception of except for~~ in-home child care ~~described in~~ under Section 401 of these rules. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other applicable law. (3-17-22)()

01. Age of Provider. All child care providers providing services must be eighteen (18) years old or older. Persons sixteen (16) or seventeen (17) years old may provide child care if they have direct, on-site supervision from a licensed child care provider who is at least eighteen (18) years old. (3-17-22)

02. Sanitary Food Preparation. Food for use in child care facilities must be prepared and served in a sanitary manner. Utensils and food preparation surfaces must be cleaned and sanitized before using to prevent contamination. (3-17-22)

03. Food Storage. All food served in child care facilities must be stored to protect it from potential contamination. (3-17-22)

04. Hazardous Substances. Medicines, cleaning supplies, and other hazardous substances must be handled safely and stored out of the reach of children. Biocontaminants must be disposed of appropriately. (3-17-22)

05. Emergency Communication. A telephone or some type of emergency communication system is required. (3-17-22)

06. Smoke Detectors, Fire Extinguishers, and Exits. A properly installed and operational smoke detector must be on the premises where child care occurs. Adequate fire extinguishers and fire exits must be available on the premises. (3-17-22)

07. Hand Washing. Each provider must wash ~~his~~ their hands with soap and water at regular intervals, including before feeding, after diapering or assisting children with toileting, after nose wiping, and after administering first aid. (3-17-22)()

08. CPR/First Aid. All providers must have current certification in pediatric rescue breathing (CPR) and pediatric first aid treatment from a certified instructor. (3-17-22)

09. Health of Provider. Each provider must certify that ~~he does~~ they do not have a communicable disease or any physical or psychological condition that might pose a threat to the safety of a child in ~~his~~ their care. (3-17-22)()

10. Child Abuse. Providers must report suspected child abuse to the appropriate authority. (3-17-22)

11. Transportation. Providers who transport children as part of their child care operations must operate safely and legally, using child safety restraints and seat belts as required by state and local statutes. (3-17-22)

12. Disaster and Emergency Planning. Providers must have documented ~~policies and procedures~~ planning plans for emergencies resulting from a natural disaster, or man-caused event that include: (3-17-22)()

a. Procedures for ~~Evacuation, relocation, shelter-in-place, and lock-down~~ procedures, and communication and reunification with families, continuity of operations, and accommodation of infants and toddlers; ~~and~~ and children with disabilities; ~~and children with~~ or chronic medical conditions. (3-17-22)()

- b. Procedures for staff and volunteer emergency preparedness training and practice drills. (3-17-22)
- c. Guidelines for the continuation of child care services in the period following the emergency or disaster. (3-17-22)

13. Environmental Safety. Building and physical premises must be safe, including identification of and protection from hazards that can cause bodily injury including electrical hazards, bodies of water, and vehicular traffic. (3-17-22)

14. Safe Sleep. Providers must place newborn infants to twelve (12) months in a safe sleep environment. Safe sleep practices include, alone, on their backs, and in a Consumer Product Safety Commission (CPSC) certified crib. (~~3-17-22~~) ()

15. Behavior Management and Discipline. Methods of behavior management and discipline for children must be positive, consistent, and based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. Providers must certify that they will not harm, shake, or abuse children, and that children in their care will not experience maltreatment under 45 CFR 98.41. ()

IDAPA 17 – INDUSTRIAL COMMISSION
17.11.01 – ADMINISTRATIVE RULES OF PEACE OFFICER AND
DETENTION OFFICER TEMPORARY DISABILITY ACT
DOCKET NO. 17-1101-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 72-1104, Idaho Code.

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

Virtual Public Hearing via WebEx
Tuesday, October 11, 2022 1:00 p.m. to 2:00 p.m. (MT)
Join from the meeting link https://idahogov.webex.com/idahogov/j.php?MTID=m7c98976f7a1802aa314a3e8ba707b9c1 Join by Phone: 1-415-655-0001 Meeting access code: 2454 910 5724 Meeting password: MXjMPXTb872

Virtual Public Hearing via WebEx
Thursday, October 20, 2022 10:30 a.m. to 11:30 a.m. (MT)
Join from the meeting link https://idahogov.webex.com/idahogov/j.php?MTID=m06b78170452649095d8d237214918410 Join by Phone: 1-415-655-0001 Meeting access code: 2459 297 3645 Meeting password: 73ZmzJXw4jW

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 accordance with [Executive Order 2020-01: Zero-Based Regulation](#), the Industrial Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify this rule language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge imposed or increased.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol 22-4, pages 35-36](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no incorporations by reference contained in this chapter of administrative rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kamerron Slay at 208-334-6017.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to Kamerron Slay, 208-334-6017 or kamerron.slay@iic.idaho.gov and must be delivered on or before October 31, 2022.

DATED this 31st day of August.

George Gutierrez, Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: 208-334-6000
Fax: 208-334-2321

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 17-1101-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

17.11.01 – ADMINISTRATIVE RULES OF PEACE OFFICER AND
DETENTION OFFICER TEMPORARY DISABILITY ACT

000. LEGAL AUTHORITY.

Section 72-1104, Idaho Code. ()

001. SCOPE.

This chapter includes the Industrial Commission's rules regarding the Peace Office Temporary Disability Fund. ()

002. -- 010. (RESERVED)

011. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY FUND.

01. Application. An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund may do so on the form provided by the Commission, available online. ()

02. Payments. Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund will be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. ()

03. Disputes. To the extent practicable, disputes arising under Chapter 11, Title 72 will be resolved by the Industrial Commission in accordance with the Judicial Rules of Practice and Procedure under the Idaho Workers' Compensation laws (JRP) and statutes governing the resolution of disputes in Workers' Compensation cases. Dispute resolution is initiated by the filing of a complaint. ()

012. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

DOCKET NO. 24-0000-2201F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

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 Section 67-2604, Idaho Code, and the following additional sections of Idaho Code:

IDAPA 24.03 – Section 54-707, Idaho Code;
IDAPA 24.06 – Section 54-3717, Idaho Code;
IDAPA 24.09 – Section 54-1604, Idaho Code;
IDAPA 24.10 – Section 54-1509, Idaho Code;
IDAPA 24.11 – Section 54-605, Idaho Code;
IDAPA 24.12 – Section 54-2305, Idaho Code;
IDAPA 24.13 – Section 54-2206, Idaho Code;
IDAPA 24.14 – Section 54-3204, Idaho Code;
IDAPA 24.15 – Section 54-3404, Idaho Code;
IDAPA 24.16 – Section 54-3309, Idaho Code;
IDAPA 24.17 – Section 54-4705, Idaho Code;
IDAPA 24.19 – Section 54-4205, Idaho Code;
IDAPA 24.23 – Section 54-2910, Idaho Code;

IDAPA 24.24 – Section 54-5607, Idaho Code;
IDAPA 24.26 – Section 54-5504, Idaho Code;
IDAPA 24.27 – Section 54-4007, Idaho Code;
IDAPA 24.31 – Section 54-912, Idaho Code;
IDAPA 24.33 – Sections 54-1806, 54-5105, 54-3913, 54-4305, and 54-3505, Idaho Code;
IDAPA 24.34 – Section 54-1404, Idaho Code;
IDAPA 24.36 – Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and Sections 54-1717 and 37-2715, Idaho Code;

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

24.10.01, Rules of the State Board of Optometry
Thursday, October 6, 2022 – 1:00-2:00 p.m. (MT) Division of Occupational and Professional Licenses Chinden Campus Building 4 – Coolwater Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

24.12.01, Rules of the Idaho State Board of Psychologist Examiners
Thursday, October 6, 2022 – 2:00-3:00 p.m. (MT) Division of Occupational and Professional Licenses Chinden Campus Building 4 – Coolwater Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

24.23.01, Rules of the Speech, Hearing and Communication Services Licensure Board
Thursday, October 6, 2022 – 3:00-4:00 p.m. (MT) Division of Occupational and Professional Licenses Chinden Campus Building 4 – Coolwater Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

24.34.01, Rules of the Idaho Board of Nursing

Thursday, October 6, 2022 – 4:00-5:00 p.m. (MT)
Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Coolwater Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714

**24.06.01, Rules for the Licensure of Occupational Therapists
and Occupational Therapy Assistants**

24.11.01, Rules of the State Board of Podiatry

24.13.01, Rules Governing the Physical Therapy Licensure Board

24.16.01, Rules of the State Board of Dentistry

24.31.01, Rules of the Idaho State Board of Dentistry

**24.33.01, Rules of the Board of Medicine for the Licensure to Practice Medicine and
Osteopathic Medicine in Idaho**

24.33.02, Rules for the Licensure of Physician Assistants

24.33.03, General Provisions of the Board of Medicine

24.33.04, Rules for the Licensure of Naturopathic Medical Doctors

24.33.05, Rules for the Licensure of Athletic Trainers to Practice in Idaho

**24.33.06, Rules for Licensure of Respiratory Therapists
and Permitting of Polysomnographers in Idaho**

24.33.07, Rules for the Licensure of Dietitians

24.36.01, Rules of the Idaho State Board of Pharmacy

Thursday, October 20, 2022 – 1:00-4:00 p.m. (MT)
Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Coolwater Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714

**24.17.01, Rules of the State Board of Acupuncture
24.26.01, Rules of the Idaho Board of Midwifery**

**Tuesday, October 11, 2022 – 9:00 a.m. (MT); and
Thursday, October 20, 2022 – 9:00 a.m. (MT)**

**Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Coolwater Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714**

**24.03.01, Rules of the State Board of Chiropractic Physicians
24.09.01, Rules of the Board of Examiners of Nursing Home Administrators
24.14.01, Rules of the State Board of Social Work Examiners
24.15.01, Rules of the Idaho Licensing Board of Professional Counselors
and Marriage and Family Therapists
24.19.01, Rules of the Board of Examiners of Residential Care Facility Administrators
24.24.01, Rules of the Genetic Counselors Licensing Board
24.27.01, Rules of the Idaho State Board of Massage Therapy**

**Tuesday, October 11, 2022 – 10:30 a.m. (MT)
Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Coolwater Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714**

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 proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses that relate to health care:

IDAPA 24

- 24.03.01, *Rules of the State Board of Chiropractic Physicians*;
- 24.06.01, *Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants* (Removed physical agent modalities language which was duplicative of statute or overly restrictive);
- 24.09.01, *Rules of the Board of Examiners of Nursing Home Administrators*;
- 24.10.01, *Rules of the State Board of Optometry* (ZBR Chapter Rewrite);

- 24.11.01, *Rules of the State Board of Podiatry*; (updated website link for document incorporated by reference);
- 24.12.01, *Rules of the Idaho State Board of Psychologist Examiners* (ZBR Chapter Rewrite);
- 24.13.01, *Rules Governing the Physical Therapy Licensure Board*;
- 24.14.01, *Rules of the State Board of Social Work Examiners*;
- 24.15.01, *Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists*;
- 24.16.01, *Rules of the State Board of Dentistry*;
- 24.17.01, *Rules of the State Board of Acupuncture* (ZBR Chapter Rewrite);
- 24.19.01, *Rules of the Board of Examiners of Residential Care Facility Administrators*;
- 24.23.01, *Rules of the Speech, Hearing and Communication Services Licensure Board* (ZBR Chapter Rewrite);
- 24.24.01, *Rules of the Genetic Counselors Licensing Board*;
- 24.26.01, *Rules of the Idaho Board of Midwifery* (ZBR Chapter Rewrite);
- 24.27.01, *Rules of the Idaho State Board of Massage Therapy*;
- 24.31.01, *Rules of the Idaho State Board of Dentistry*;
- 24.33.01, *Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho*; (Added definition clarifying post-graduate training requirement for physician licensure);
- 24.33.02, *Rules for the Licensure of Physician Assistants*;
- 24.33.04, *Rules for the Licensure of Naturopathic Medical Doctors*;
- 24.33.05, *Rules for the Licensure of Athletic Trainers to Practice in Idaho*;
- 24.33.06, *Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho*;
- 24.33.07, *Rules for the Licensure of Dietitians*;
- 24.34.01, *Rules of the Idaho Board of Nursing* (ZBR Chapter Rewrite); and
- 24.36.01, *Rules of the Idaho State Board of Pharmacy* (Updated definitions to be consistent with 2022 legislative changes).

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.03.01, Rules of the State Board of Chiropractic Physicians – Fees are established in accordance with Section 54-707A, Idaho Code, as follows:

Fee Type	Amount (Not to Exceed)
Application	\$200
Original License	\$200
Annual Renewal	\$200
Inactive License	\$150
Reinstatement of Expired License	\$35
Reinstatement of Inactive License	\$150
Temporary Permit	\$150
Intern Permit	\$150
Application for Clinical Nutrition Certification	\$175
Original for Clinical Nutrition Certification	\$175
Clinical Nutrition Certification Renewal	\$175

24.06.01, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants – Fees are established in accordance with Section 54-3712, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL FEE (Not to Exceed)
Initial Licensure for Occupational Therapists	\$80	\$40
Initial Licensure for Occupational Therapy Assistants	\$60	\$30
Limited Permit or Temporary License	\$25	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code	
Inactive License Renewal	\$20	
Inactive to Active License	The difference between the current inactive and active license renewal fees	

24.09.01, Rules of the Board of Examiners of Nursing Home Administrators – Fees are established in accordance with Section 54-1604, Idaho Code, as follows:

FEE	AMOUNT (Not to Exceed)
Original Application	\$200
Original License	\$200
Annual Renewal	\$200
Endorsement Application	\$200
Temporary Permit	\$100
Administrator-in-training	\$100
License Reinstatement	\$100

24.10.01, Rules of the State Board of Optometry – Fees are established in accordance with Section 54-1506, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
License Application	\$100
Annual Fund	\$75
Annual Renewal	\$75
Reinstatement	As provided in Section 67-2614, Idaho Code

24.11.01, Rules of the State Board of Podiatry – Fees are established in accordance with Sections 54-605 and 54-606, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$200
Original License	\$400
Written Examination	Set by National Examining Entity
Annual Renewal	\$500
Inactive License Annual Renewal	\$250

24.12.01, Rules of the Idaho State Board of Psychologist Examiners – Fees are established in accordance with Sections 54-2307, 54-2312, 54-2312A, 54-2315, and 54-2318, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application for Licensure by Exam	\$150	
Inactive License Renewal	\$125	
Endorsement Application	\$250	
Senior Psychologist	\$250	
Annual Licensure Renewal		\$250
Prescribing Psychologist	\$250	\$250
Service Extender	\$100	\$100
Reinstatement Penalty-Current Year	\$35	
Administrative Fee	\$25	
Duplicate License Fee	\$10	
Certification Fee	\$10	
PSYPACT Participation Fee		\$10

24.13.01, Rules Governing the Physical Therapy Licensure Board – Fees are established in accordance with Section 54-313, Idaho Code:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Physical Therapist License	\$25	\$25
Physical Therapist Assistant License	\$20	\$20
Examination	Established by examination entity plus an administrative fee not to exceed \$20	
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application	\$25	

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Dry Needling Certification	\$25	\$25
Physical Therapist Inactive	\$15	\$15
Physical Therapist Assistant Inactive	\$10	\$10
Inactive to Active License	The difference between the inactive fee and active license renewal fee	

24.14.01, Rules of the State Board of Social Work Examiners – Fees are established in accordance with Section 54-3209, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)	INACTIVE (Not to Exceed)
Application	\$70		
Examination	Set by testing service		
Endorsement and License	\$90		
Licensed Clinical Social Worker	\$70	\$90	\$45
Licensed Masters Social Worker	\$70	\$80	\$40
Licensed Social Worker	\$70	\$80	\$40
Reinstatement	In accordance with Section 67-2614, Idaho Code		

24.15.01, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists – Fees are established in accordance with Section 54-3411, Idaho Code, as follows:

LICENSE/PERMIT/REGISTRATION	INITIAL FEE (Not to Exceed)	ANNUAL RENEWAL FEE (Not to Exceed)
Application	\$100	
License	\$100	\$120
Intern Registration	\$25	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code	
Senior License		\$60
Inactive License		\$60
Inactive to Active License Fee	The difference between the current inactive and active license renewal fees	

24.16.01, Rules of the State Board of Dentistry – Fees are established in accordance with Section 54-3312, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750

24.17.01, Rules of the State Board of Acupuncture – Fees are established in accordance with Section 54-4710(2), Idaho Code, as follows:

License/Certification/Permit/Certification	Initial Fee (Not to Exceed)	Annual Renewal Fee (Not to Exceed)
Application	\$50	n/a
License	\$150	\$75
Certification	\$150	\$75
Acupuncture Trainee	\$150	\$50
Inactive License or Certification	n/a	\$50
Reinstatement	\$250	n/a

24.19.01, Rules of the Board of Examiners of Residential Care Facility Administrators – Fees are established in accordance with Sections 54-4205 and 54-4206, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$150
Annual Renewal	\$150
Provisional Permit	\$150
Reissuance of Lost License	\$10
Reinstatement	As provided in Section 67-2614, Idaho Code

24.23.01, Rules of the Speech, Hearing and Communication Services Licensure Board – Fees are established in accordance with Sections 54-2912, 54-2913, 54-2914, 54-2915, 54-2916A, 54-2918, and 54-2921, Idaho Code, as follows:

LICENSE/PERMIT/REGISTRATION	INITIAL FEE (Not to Exceed)	ANNUAL RENEWAL FEE (Not to Exceed)
Application	\$30	
Original or Endorsement	\$70	\$100
Provisional Permit or Extension	\$100	
Registration Out-of-State Licensee	\$10	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code	
Inactive License		\$65
Inactive to Active License Fee	The difference between the current inactive and active license renewal fees	

24.24.01, Rules of the Genetic Counselors Licensing Board – Fees are established in accordance with Section 54-5613, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$200
Original License	\$200
Annual Renewal	\$200
Provisional License	\$200
License by Endorsement	\$200
Examination	Determined by third-party examination administrator
Reinstatement	As provided in Section 67-2614, Idaho Code

24.26.01, Rules of the Idaho Board of Midwifery – Fees are established in accordance with Section 54-5509, Idaho Code, as follows:

APPLICATION	FEE (Not to Exceed)
Initial Application	\$200
Initial License	\$800 (amount will be refunded if license not issued)
Renewal	\$850 (amount will be refunded if license not renewed)
Reinstatement	\$50

24.27.01, Rules of the Idaho State Board of Massage Therapy – Fees are established in accordance with Section 54-4008, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Original License	\$65
Annual Renewal	\$65
License by Endorsement	\$75
Temporary License	\$25
Provisional Permit	\$25
Reinstatement	As provided in Section 67-2614, Idaho Code
Examination	Established by Administrator

24.31.01, Rules of the Idaho State Board of Dentistry – Fees are established in accordance with Sections 54-916 and 54-920, Idaho Code, as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	\$300	Active Status: \$375 Inactive Status: \$160
Dental Hygienist	\$150	Active Status: \$175 Inactive Status: \$85
Dental Therapist	\$200	Active Status: \$250 Inactive Status: \$125
Sedation Permit	\$300	\$300

IDAPA 24.33 – Fees are established in accordance with Sections 54-1806, 54-5105, 54-3913, 54-4305, and 54-3505, Idaho Code; Idaho Code, as follows:

24.33.01, Rules of the Board of Medicine for Licensure to Practice Medicine & Osteopathic Medicine in Idaho;

Fees – Table (Non-Refundable)		
Licensure Fee	-	Not more than \$600
Temporary License	-	Not more than \$300
Reinstatement License Fee plus total of renewal fees not paid by applicant	-	Not more than \$300
Inactive License Renewal Fee	-	Not more than \$100
Renewal of License to Practice Medicine Fee	-	Not more than \$300
Duplicate Wallet License	-	Not more than \$20

Fees – Table (Non-Refundable)		
Duplicate Wall Certificate	-	Not more than \$50
Volunteer License Application Fee	-	\$0
Volunteer License Renewal Fee	-	\$0

Fees – Table		
Resident and Intern Registration Fee	-	Not more than \$25
Registration Annual Renewal Fee	-	Not more than \$25

24.33.02, Rules for the Licensure of Physician Assistants;

Fees – Table (Non-Refundable)		
Licensure Fee - Physician Assistant & Graduate Physician Assistant	-	Not more than \$250
Annual License Renewal Fee	-	Not more than \$150
Reinstatement Fee	-	\$50 plus past renewal fees
Reinstatement Fee for Graduate Physician Assistant	-	Not more than \$100
Inactive License Fee	-	Not more than \$150
Annual Renewal of Inactive License Fee	-	Not more than \$100
Inactive Conversion Fee	-	Not more than \$150

24.33.04, Rules for the Licensure of Naturopathic Medical Doctors;

Fees – Table (Non-Refundable)	
Licensure Fee	Not more than \$600
Annual License Renewal Fee	Not more than \$300
Reinstatement Fee	Not more than \$200
Inactive License Renewal Fee	Not more than \$100
Duplicate Wallet License Fee	Not more than \$20
Duplicate Wall Certificate Fee	Not more than \$50

24.33.05, Rules for the Licensure of Athletic Trainers to Practice in Idaho;

Fees – Table (Non-Refundable)		
Athletic Trainer Licensure Fee	-	Not more than \$240
Athletic Trainer Annual Renewal Fee	-	Not more than \$160

Fees – Table (Non-Refundable)	
Directing Physician Registration Fee	- Not more than \$50
Annual Renewal of Directing Physician Registration Fee	- Not more than \$25
Alternate Directing Physician Registration/Renewal Fee	- \$0
Provisional Licensure Fee	- Not more than \$80
Annual Renewal of Provisional License Fee	- Not more than \$40
Inactive License Renewal Fee	- Not more than \$80
Reinstatement Fee	- Not more than \$50 plus unpaid renewal fees

24.33.06, Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho;

Fees – Table (Non-Refundable)	
Respiratory Care Practitioner Initial Licensure Fee	- Not more than \$180
Respiratory Care Practitioner Reinstatement Fee	- \$50 plus unpaid renewal fees
Annual Renewal Fee for Inactive License	- Not more than \$100
Inactive Conversion Fee	- Not more than \$100
Annual Renewal Fee	- Not more than \$140
Provisional License Fee	- Not more than \$90

Fees – Table (Non-Refundable)	
Initial Permit Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$180
Reinstatement Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- \$50 plus unpaid renewal fees
Annual Renewal Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$140
Provisional Permit Fee – Registered Polysomnographic Technologist	- Not more than \$90
Annual Renewal Fee for Inactive License—Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$100
Inactive Conversion Fee	- Not more than \$100 plus unpaid active licensure fees for the time inactive

Fees – Table (Non-Refundable)	
Dual Licensure/Permit Fee	- Not more than \$180
A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.	
Reinstatement Fee	- \$50 plus unpaid renewal fees

Fees – Table (Non-Refundable)	
Annual Renewal Fee	- Not more than \$140
Renewal is required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially were not obtained at the same time.	

24.33.07, Rules for the Licensure of Dietitians;

Fees – Table (Non-Refundable)	
Initial Licensure Fee	- Not more than \$150
Annual Renewal Fee	- Not more than \$100
Reinstatement Fee	- \$50 plus unpaid renewal fees
Inactive Conversion Fee	- Not more than \$50

24.34.01, Rules of the Idaho Board of Nursing – Fees are established in accordance with Section 54-1404(8), Idaho Code, as follows:

Initial Licensure, Renewal & Reinstatement Fees				
	Registered Nurse	Practical Nurse	Advanced Practice Nurse	Medication Assistant - Certified
Temporary License Fee	\$25	\$25	\$25	
Initial Application Fee			\$90	
License by Exam Fee	\$90	\$75	\$90	
License by Endorsement	\$110	\$110		
License Renewal	\$90	\$90	\$90	\$35
Expiration Date	Aug 31-odd years	Aug 31-even years	Aug 31-odd years	Aug 31-even years

Records Verification Fee	\$35
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24.36.01, Rules of the Idaho State Board of Pharmacy – Fees are established in accordance with Section 54-1720(4), Idaho Code, as follows:

License/Registration	Initial Fee	Annual Renewal Fee
Pharmacist License	\$140	\$130
Nonresident PIC Registration	\$290	\$290
Pharmacist Intern	\$50	\$50
Technician	\$35	\$35
Practitioner Controlled Substance Registration	\$60	\$60

License/Registration	Initial Fee	Annual Renewal Fee
Drug Outlet (unless otherwise listed)	\$100	\$100
Wholesale License	\$180	\$180
Wholesale Registration	\$150	\$150
Central Drug Outlet (Nonresident)	\$500	\$250
Mail Service Pharmacy	\$500	\$250
Durable Medical Equipment Outlet	\$50	\$50
Outsourcing Facility (Nonresident)	\$500	\$250
Manufacturer	\$150	\$150
Veterinary Drug Outlet	\$35	\$35

Category	Fee
Late payment processing fee	\$50
License or registration reinstatement fee	One-half (1/2) of the amount of the annual renewal

Category	Fee
Experiential hours certification	\$25
Duplicate pharmacist certificate of licensure	\$35

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 is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

Negotiated rulemaking conducted outside of this omnibus rulemaking was published under docket 24-ZBRR-2201 in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 73-77](#) and affects the following rule chapters included in this proposed rulemaking listed below:

- 24.10.01, *Rules of the State Board of Optometry*;
- 24.12.01, *Rules of the Idaho State Board of Psychologist Examiners*;
- 24.17.01, *Rules of the State Board of Acupuncture*;
- 24.23.01, *Rules of the Speech, Hearing and Communication Services Licensure Board*;
- 24.26.01, *Rules of the Idaho Board of Midwifery*; and
- 24.34.01, *Rules of the Idaho Board of Nursing*.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 5, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
11341 W. Chinden Boulevard, Building #4
Boise, ID 83714
P.O. Box 83720
Boise, ID 83720-0063
tim.frost@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF OMNIBUS FEE DOCKET NO. 24-0000-2201F
(New Chapters)**

24.03.01 – RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-707, Idaho Code. ()

001. SCOPE.

These rules govern the practice of chiropractic in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITION.

01. Chiropractic Assistant. A chiropractic assistant is an individual functioning in a dependent relationship with a supervising chiropractic physician in the performance of any chiropractic practice. ()

02. Chiropractic Intern. A chiropractic intern is defined as any individual who is presently enrolled in a school of chiropractic and is qualified to practice as an intern as established by the approved chiropractic college that the individual attends and who will function in a dependent relationship with a supervising chiropractic physician in the performance of chiropractic practice. ()

03. Direct Personal Supervision. Direct Personal Supervision means that the licensed chiropractic physician is physically present in the clinic, is monitoring the activities of the supervisee, and is available to intervene, if necessary. ()

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

011. -- 099. (RESERVED)

100. APPLICATIONS.

01. Qualifications. ()

a. New applicants will meet the following requirements: ()

i. National Boards Parts I, II, III, and IV; ()

ii. Graduation from a Council on Chiropractic Education (CCE) approved college or university; and ()

iii. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians." ()

b. Endorsement applicants will meet the following requirements: ()

i. Successful passage of the National Boards Parts which were in effect at the time of graduation from chiropractic college and physiotherapy; ()

ii. If licensed prior to January, 1980, CCE approved college or university not required. If licensed after January, 1980, applicant must have graduated from a CCE approved college or university; ()

iii. Five (5) years of consecutive practice without discipline immediately prior to application and holds a current, valid license to practice in a state, territory, or district of the United States or Canada; ()

iv. Applicants demonstrate that they possess the requisite qualifications to provide the same standard of chiropractic care as provided by physicians in this state. The Board may, in its sole discretion, require further examination to establish such qualifications, such as passage of the National Board Special Purposes Examination for Chiropractors (SPEC); and ()

v. Applicants sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, ()

Chapter 01, "Rules of the State Board of Chiropractic Physicians." ()

101. -- 149. (RESERVED)

150. FEES.

All fees are non-refundable.

Fee Type	Amount (Not to Exceed)
Application	\$200
Original license	\$200
Annual renewal	\$200
Inactive license	\$150
Reinstatement of expired license	\$35
Reinstatement of inactive license	\$150
Temporary permit	\$150
Intern permit	\$150
Application for clinical nutrition certification	\$175
Original for clinical nutrition certification	\$175
Clinical nutrition certification renewal	\$175

()

151. -- 199. (RESERVED)

200. EXAMINATIONS.

It is the applicant's duty to take and successfully pass the National Board Examinations administered by the National Board of Chiropractic Examiners as specified in these rules. ()

201. -- 299. (RESERVED)

300. INACTIVE LICENSE.

A licensee holding a current active license in this state who is not practicing chiropractic in this state may be issued an inactive license in accordance with Section 54-708(2), Idaho Code, as follows: ()

01. Inactive Status. Each application for an Inactive status license must be accompanied by: ()

a. The established fee; and ()

b. A written application to change a current active license to an inactive license. ()

c. An inactive license is issued for one (1) year. ()

02. Inactive License Status Renewal. ()

a. An inactive license must be renewed annually by submitting the established fee and renewal application. Inactive licenses not renewed will be canceled. ()

b. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. ()

03. Return to Active Status of License Inactive for Five (5) or Fewer Years. An inactive license

holder whose license has been inactive for five (5) or fewer years may convert from inactive to active license status by: ()

- a. Making written application to the Board on a form prescribed by the Board; ()
- b. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ()
- c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ()

04. Return to Active Status of License Inactive for More Than Five (5) Years. An inactive license holder whose license has been inactive for more than five (5) years may convert from inactive to active license status by: ()

- a. Making written application to the Board on a form prescribed by the Board. ()
- b. Providing an account to the Board for that period of time during which the license was inactive and fulfilling requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency. ()
- c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ()

05. Clinical Nutrition Certificate Expires. If a licensee holds a clinical nutrition certificate and places their license on inactive status, the clinical nutrition certificate is immediately canceled as though the license was not timely renewed as provided in Section 703 of these rules. ()

06. Reissuance of Clinical Nutrition Certificate. An inactive license holder who held a clinical nutrition certificate at the time their license was placed on inactive status who returns to active license status pursuant to this rule may be reissued a clinical nutrition certificate by showing proof of compliance with the provisions of Sections 704, 705, and 706 that apply to their situation. ()

301. -- 349. (RESERVED)

350. CONTINUING EDUCATION.

All licensees must comply with the following continuing education requirements: ()

01. Requirement. Applicants for renewal are required to complete a minimum of eighteen (18) hours of continuing education within the preceding twelve (12) months, as approved by the Board. ()

- a. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. ()
- b. The educational setting may include a classroom, conference/seminar, on-line, or a virtual classroom. ()
- c. If the licensee completes two (2) or more courses having substantially the same content during any one (1) renewal period, the licensee only will receive continuing education credit for one (1) of the courses. ()

02. Documentation. Each licensee maintains documentation verifying continuing education attendance and curriculum for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. ()

- a. Documented evidence of meeting the continuing education requirement will be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the

activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. ()

b. A licensee must submit the verification documentation to the Board if requested by the Board. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. ()

03. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ()

04. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. Hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. ()

05. Exemption. A licensee is exempt from the continuing education requirements under this section for the period between the initial issuance or the original license and the first expiration date of that license. ()

06. Continuing Education Activities. The following educational activities qualify for continuing education: ()

a. Post-graduate education courses, germane to chiropractic practice as approved by the Board. ()

b. Attendance at Board meetings. ()

351. APPROVAL OF CONTINUING EDUCATION COURSES.

01. Approved Continuing Education Courses. Approved continuing education courses are those courses, programs, and activities that are germane to the practice of chiropractic, as defined in Sections 54-704(1) and (2), Idaho Code, and meet the general requirements and content requirements of these rules, and are approved, sponsored, or provided by the following entities or organizations, or otherwise approved by the Board: ()

a. Council of Chiropractic Education (CCE) approved chiropractic college or university, a college or university accredited by a nationally recognized accrediting agency as recognized by the United States Secretary of Education or an educational program approved by the Board; ()

b. Providers of Approved Continuing Education (PACE); ()

c. National and state chiropractic associations; and ()

d. Provider Course Approval. Other courses that may be approved by the Board based upon documentation submitted by a continuing education provider. Requests for approval of courses made by the provider must be submitted on a form approved by the Board that includes: ()

i. The nature and subject of the course and how it is germane to the practice of chiropractic; ()

ii. The name of the instructor(s) and their qualifications; ()

iii. The date, time, and location of the course; ()

iv. The specific agenda for the course; ()

v. The number of continuing education hours requested; ()

vi. The procedures for verification of attendance; and ()

vii. Other information as may be requested by the Board. ()

viii. Upon review of all information requested, the Board may deny any request for a course that does not meet the requirements of Idaho law or rule. Board approval of a course will be granted for a period not to exceed two (2) years or until the course materials or instructors are changed, whichever may occur first. ()

02. Licensee Course Approval. Other courses that may be approved by the Board based upon documentation submitted by the licensee. All requests for approval must be made to the Board in writing and include the nature and subject of the course and its relevancy to the practice of chiropractic, name of instructor(s) and their qualifications, date, time and location of the course, and procedures for verification of attendance. ()

352. -- 399. (RESERVED)

400. APPROVED SCHOOLS OF CHIROPRACTIC.

01. Requirement for Approval. ()

a. The Board will consider a school, college, or university in good standing only if such school, college, or university conforms to the requirements of “recognized candidate for accreditation,” or “accredited” of the Council of Chiropractic Education or any foreign country college which meets equivalent standards as determined by the Board and teaches accredited courses in all the subjects set forth in Section 54-709(1)(b), Idaho Code. ()

b. Regardless of the Council on Chiropractic Education status, the Board may make additional requirements for approval as a reputable school, college or university of Chiropractic. ()

02. New Schools. Those graduates of new schools of chiropractic will only be accepted for licensure application provided the school reaches “recognized candidate for accreditation” status with the Council on Chiropractic Education within one year following the first graduating class. ()

401. -- 449. (RESERVED)

450. ADVERTISEMENTS.

01. Prohibited Advertising. A chiropractor must not disseminate or cause the dissemination of any advertisement or advertising which is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising will be deemed by the Board to be fraudulent, false, deceptive, or misleading if it: ()

a. Is likely to deceive, defraud, or harm the public; or ()

b. Uses false or misleading statement(s) regarding a chiropractor’s skill or the efficacy or value of the chiropractic medicine, treatment, or remedy prescribed by a chiropractor or at a chiropractor’s direction in the treatment of any disease or other condition of the body or mind. ()

451. -- 549. (RESERVED)

550. CHIROPRACTIC ASSISTANTS.

01. Chiropractic Physician Responsible and Liable. The chiropractic physician is responsible and liable for: ()

a. Direct personal supervision; ()

b. Any acts of the assistant in the performance of chiropractic practice; ()

c. Proper training and capabilities of the chiropractic assistant before authorization is given to perform any chiropractic practice. ()

- 02. Chiropractic Assistant Limitations.** A chiropractic assistant must not: ()
- a. Manipulate articulations; ()
 - b. Provide diagnostic results or interpretations to the patient; ()
 - c. Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. ()

551. CHIROPRACTIC INTERN.

- 01. Chiropractic Physician Responsible and Liable.** The chiropractic physician is responsible and liable for: ()
- a. Direct personal supervision of the intern; ()
 - b. Any acts of the intern in the performance of chiropractic practice; ()
 - c. Determining that the intern possesses sufficient training and capabilities before authorization is given to perform any chiropractic practice. ()

- 02. Chiropractic Intern Limitations.** A chiropractic intern must not: ()
- a. Perform any chiropractic practice independently, but must perform all such practice under the direct personal supervision of a licensed Chiropractic Physician; ()
 - b. Provide diagnostic results or interpretations to the patient prior to consultation with the supervising Chiropractic Physician; ()
 - c. Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. ()

552. TEMPORARY PRACTICE PERMITS.

When an original application for license or internship is accepted by the board as being fully completed, in accordance with the requirements of the Idaho Chiropractic Physician Law and these Rules, a temporary permit to practice may be issued. ()

- 01. Supervision Required.** A permit holder may work only when under the direct personal supervision of a chiropractic physician currently licensed in Idaho. The name, address, and signature of the supervising chiropractic physician will appear on the application. ()

- 02. Only One Permit May Be Issued.** Only one (1) permit may be issued under any circumstances to any individual. ()

- 03. Validity of Temporary Permits.** Temporary permit to practice will be valid for a period not to exceed twelve (12) months and only: ()

- a. In the case of an applicant for Idaho licensure, until the results of the next scheduled examination have been released. No work permit will be issued to an applicant who has previously failed an examination for licensure in this or any other state, territory, possession, or country more than once. Failure to sit for the next scheduled examination will invalidate the work permit and no further permits will be issued. ()

- b. In the case of an intern, until the scheduled date of graduation from an approved school of chiropractic. Upon original application for licensure in Idaho, the intern permit may be extended by the board until the results of the next scheduled examination have been released. No work permit will be issued to an applicant who has previously failed an examination for licensure in this or any other state, territory, possession, or country more

than once. Failure to sit for the next scheduled examination will invalidate the work permit and no further permits will be issued. ()

553. -- 604. (RESERVED)

605. CODE OF ETHICS.

Chiropractic physicians are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A in these rules. ()

606. -- 699. (RESERVED)

700. CLINICAL NUTRITION CERTIFICATION AND PRACTICE.

01. Non-Certified Clinical Nutritional Practice. Clinical nutritional methods as referenced in Section 54-704(1), Idaho Code, include, but are not limited to, the clinical use, administration, recommendation, compounding, prescribing, selling, and distributing non-prescription vitamins, minerals, botanical medicine, herbals, homeopathic, phytonutrients, antioxidants, enzymes and glandular extracts, and durable and non-durable medical goods and devices. Nothing herein shall allow any deviation from Section 54-704(3), Idaho Code. ()

02. Certified Clinical Nutritional Practice. The Board may issue clinical nutrition certification to a chiropractic physician licensed by the Board who successfully completes the minimum education and complies with requirements in Chapter 7, Title 54, Idaho Code governing clinical nutrition certification and the requirements of Sections 700 through 706. ()

701. (RESERVED)

702. REQUIREMENTS FOR CLINICAL NUTRITION CERTIFICATION.

The Board may grant clinical nutrition certification to a licensee who completes an application, pays the applicable fees and meets the following requirements: ()

01. General. ()

a. Hold and maintain a current, active, unrestricted license as a chiropractic physician issued by the Board. ()

b. Not have been on probation or otherwise disciplined by the Board or by any other licensing board or regulatory entity; provided the applicant may make written request to the Board for an exemption review to determine the applicant's suitability for certification, which the Board shall determine in accordance with the following: ()

i. The exemption review shall consist of a review of any documents relating to the probation or discipline and any supplemental information provided by the applicant bearing upon the applicant's suitability for certification. The Board may, at its discretion, grant an interview of the applicant. During the review, the Board shall consider the following factors or evidence: ()

(1) The severity or nature of the violation(s) resulting in probation or discipline; ()

(2) The period of time that has passed since the violation(s) under review; ()

(3) The number or pattern of violations or other similar incidents; ()

(4) The circumstances surrounding the violation(s) that would help determine the risk of repetition; ()

(5) The relationship of the violation(s) to the practice of chiropractic or any health care profession, including but not limited to, whether the violation(s) related to clinical practice, involved patient care, a violation of any state or federal law, rule or regulation relating to controlled substances or to a drug, substance or product

identified in Section 54-704(3)(b), Idaho Code; ()

(6) The applicant's activities since the violation(s) under review, such as employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of current rehabilitation; and ()

(7) Any other mitigating or aggravating circumstances. ()

ii. The applicant shall bear the burden of establishing current suitability for certification. ()

c. Successfully complete the requirements of Section 54-717, Idaho Code, and Section 702. ()

d. Written verification of current health care provider cardiopulmonary resuscitation (CPR) certification. Health care provider CPR certification must be from a course that includes a hands-on skill component as provided by the American Heart Association, American Red Cross, American Health and Safety Institute or similar provider approved by the Board. Written verification of current basic life support (BLS) certification. All chiropractic physicians holding clinical nutrition certification must maintain current health care provider CPR and BLS certification as provided in this Section. ()

e. Certify that the chiropractic physician has BLS equipment on the premises where clinical nutrition treatment is being performed. BLS equipment shall include at a minimum: ()

i. Rescue breathing equipment. ()

ii. Oxygen. ()

iii. Epinephrine. ()

f. Certify that the chiropractic physician possesses and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code. ()

g. Payment of all fines, costs, fees or other amounts that are due and owing to the Board or in compliance with a payment arrangement with the Board is required to be eligible for clinical nutrition certification pursuant to Sections 700 through 706. ()

02. Didactic Education Requirement. Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of seven (7) credits (seventy-seven (77) hours) of didactic human nutrition, nutrition biochemistry, and nutritional pharmacology courses. The certificate or other evidence of successful completion must be provided directly to the Board by the educational institution. ()

a. Chiropractic physicians licensed by the Board who apply for clinical nutrition certification may be determined to have satisfied the didactic education requirements only if they present a certificate or other evidence acceptable to the Board pursuant to this Section demonstrating they commenced obtaining the didactic education required by this Section no earlier than three (3) years prior to applying for clinical nutrition certification and thereafter successfully completed the requirements. ()

03. Practicum Requirement. Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of twenty-four (24) hours of practicum in intravenous and injectable nutrient therapy, which must include: sterile needle practices, phlebotomy, proper injection techniques, intravenous therapy techniques, intramuscular injection techniques, safety practices, and use and expected outcomes utilizing micronutrients, response to adverse effects, lab testing, and blood chemistry interpretation. ()

a. After July 1, 2019, the practicum of any applicant for clinical nutrition certification required by this Section must not have commenced more than two (2) years prior to the date of application for clinical nutrition certification and be successfully completed thereafter. ()

04. Accredited Institution and Program Requirement. The courses and practicum required by Subsections 702.02 and 702.03 must be taken from an accredited chiropractic college or other accredited institution of higher education. In addition the courses and practicum must be from an accredited program at the college or institution or be a program approved by the Board. ()

a. For purposes of this Section “accredited” means accredited by an accrediting agency recognized by the United States Department of Education. ()

b. For purposes of this Section “approved by the Board” means a program that is a “recognized candidate for accreditation,” has “initial accreditation” status or “preaccreditation” status by an accrediting body recognized by the United States Department of Education, or is substantially equivalent to a program having that status. ()

c. An applicant for clinical nutrition certification bears the burden to demonstrate their education and training in clinical nutrition meets the requirements of this Section, including both the accredited institution and accredited program requirements. ()

05. Audit of Compliance with Clinical Nutrition Certification and Recertification Requirements. The Board may conduct audits to confirm that licensees meet the requirements to maintain clinical nutrition certification and recertification. In the event a licensee audited by the Board fails to provide documentation or other evidence acceptable to the Board of meeting the clinical nutrition certification or recertification requirements as verified to the Board as part of their annual license renewal or the recertification process the matter will be referred to Division’s investigative unit for investigation and potential disciplinary proceedings by the Board. ()

06. Requirement to Maintain Supporting Documentation. A licensee need not submit documentation to the Board with a chiropractic license renewal application verifying qualifications for annual issuance of clinical nutrition certification pursuant to Section 703, or verifying qualifications to recertify clinical nutrition certification pursuant to Section 706. However, a licensee must maintain documentation for a period of five (5) years verifying the licensee has satisfied the requirements. A licensee must submit the documentation to the Board if the annual reissuance or the recertification is audited. All documentation must include the licensee’s name, and as applicable, the date the course or other required activity commenced and was completed, provider name, course title and description, length of the course/activity, and other information required by the Board. ()

703. ANNUAL ISSUANCE OF CLINICAL NUTRITION CERTIFICATION WITH LICENSE RENEWAL.

01. Expiration Date. Chiropractic physicians’ clinical nutrition certification expires on the expiration date of their chiropractic license and must be issued annually with the renewal of their license pursuant to Section 350. The Board will waive the clinical nutrition certification fee in conjunction with the first timely renewal of the chiropractic license after initial clinical nutrition certification. ()

02. Issuance. Clinical nutrition certification is issued annually by timely submission of a chiropractic license renewal application, payment of the chiropractic license renewal fee, the clinical nutrition certification fee, any amounts owing pursuant to Subsection 702.01.g., and verifying to the Board that the licensee is in compliance with the requirements for clinical nutrition certification as provided in the Board’s laws and rules. ()

03. Failure to Comply with Issuance Requirements. ()

a. If a licensee with clinical nutrition certification fails to verify meeting clinical nutrition certification annual issuance requirements when renewing their chiropractic physician license the clinical nutrition certification is canceled and the chiropractic physician license will be renewed without clinical nutrition certification. ()

b. If a licensee with clinical nutrition certification fails to timely renew their chiropractic physician license their clinical nutrition certification is canceled. ()

c. Clinical nutrition certification canceled pursuant to this Section may be reissued within three (3)

years in accordance with Section 704. ()

704. REISSUANCE OF CANCELLED CLINICAL NUTRITION CERTIFICATION.

01. Reissuance. Clinical nutrition certification canceled pursuant to Subsection 703.03 may be reissued within three (3) years of cancellation as follows: ()

a. Submission of a reissuance application and payment of the current clinical nutrition certification fee. ()

b. Submission of any other documents required by the Board for reissuance including but not limited to: ()

i. Documentation of holding current licensure as a chiropractic physician from the Board meeting the requirements of Section 702. ()

ii. Documentation of compliance with clinical recertification requirements in accordance with Section 706. ()

iii. Documentation of current health care provider CPR and BLS certification and certification that the chiropractic physician has BLS equipment on the premises where clinical nutrition treatment is performed and that informed consent and voluntary permission to perform the proposed therapy are being used in accordance with Section 702. ()

705. CLINICAL NUTRITION CERTIFICATION CANCELLED FOR OVER THREE (3) YEARS.

Clinical nutrition certification canceled for a period of more than three (3) years may not be reissued. The chiropractic physician so affected is required to make application to the Board in compliance with Section 701 and Section 702 and pay the application and other fees for new clinical nutrition certification. The applicant will be reviewed by the Board and considered as follows: ()

01. Current Competency and Training. The chiropractic physician must fulfill requirements as determined by the Board that demonstrate the chiropractic physician's competency to regain clinical nutrition certification in this state. Such requirements may include, but are not limited to, education, supervised practice, and examination, including some or all education, training and other requirements for original clinical nutrition certification as set forth in Section 54-717, Idaho Code, and Section 702. ()

02. New Clinical Nutrition Certification. Chiropractic Physicians who fulfill the conditions and requirements of this Section may be granted a new clinical nutrition certification. ()

706. CLINICAL NUTRITION RECERTIFICATION REQUIREMENT.

01. Recertification in Clinical Nutrition Every Three (3) Years. After Initial certification in clinical nutrition, chiropractic physicians must recertify in clinical nutrition every three (3) years in order to maintain clinical nutrition certification. ()

02. Annual Verification of Meeting Requirements. In order to maintain clinical nutrition certification pursuant to Section 54-717, Idaho Code, and Section 700, chiropractic physicians having clinical nutrition certification must annually verify, along with their chiropractic license renewal, pursuant to Subsection 706.01 by attesting to the Board they are in compliance with the requirements to recertify in clinical nutrition the following: ()

a. Completion within the three (3) years prior to recertification of a twelve (12) hour in person face to face classroom course from an institution and program meeting Section 702.04 accreditation requirements. The course must include both didactic education and practical review and practice of contemporary developments and best practices to maintain core competency in the practice of clinical nutrition as set forth in Section 54-716, Idaho Code, and Section 54-717, Idaho Code. ()

b. Current licensure as a chiropractic physician issued by the Board meeting the requirements of Section 702. ()

c. Current health care provider CPR and BLS certification and that BLS equipment is maintained on the premises where clinical nutrition treatment is performed pursuant to Section 702. ()

d. They possess and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code. ()

03. Recertification is in Addition to Required Annual Continuing Education. The twelve (12) hour recertification course requirement is in addition to the annual eighteen (18) hours of continuing education required under Section 350. ()

04. Failure to Timely Recertify in Clinical Nutrition. Clinical nutrition certification not timely recertified in accordance with Section 706 expires and is canceled. Clinical nutrition certification canceled for failure to recertify may be reissued within three (3) years in accordance with Section 704. ()

707. OBTAINING AND INDEPENDENTLY ADMINISTERING CLINICAL NUTRITION PRESCRIPTION DRUG PRODUCTS.

A chiropractic physician with clinical nutrition certification as defined by Sections 54-704(4), 54-716 and 54-717, Idaho Code, may obtain and independently administer prescription drug products in the practice of chiropractic subject to the conditions below. ()

01. Current Certification in Clinical Nutrition Required. Only chiropractic physicians who hold current certification in clinical nutrition by the Board may obtain and independently administer prescription drug products during chiropractic practice. ()

02. Obtain Prescription Drugs Products from the Formulary. A chiropractic physician with clinical nutrition certification may not obtain a prescription drug product that is not listed in the chiropractic clinical nutrition formulary. ()

03. Only Administer Prescription Drug Products from the Formulary. Chiropractic physicians with clinical nutrition certification may only administer those prescription drug products listed in the chiropractic clinical nutrition formulary. ()

a. Chiropractic physicians with clinical nutrition certification may not prescribe, dispense, distribute, or direct to a patient the use of a prescription drug product except as allowed in Section 54-704(5), Idaho Code. ()

04. Routes of Administration and Dosing of Prescription Drug Products. Prescription drug products listed in the chiropractic clinical nutrition formulary may be administered through oral, topical, intravenous, intramuscular or subcutaneous routes by a chiropractic physician with clinical nutrition certification. The route of administration and dosing are in accordance with the product's labeling as approved by the federal food and drug administration or with the manufacturer's instructions. ()

05. Practice Limited to Chiropractic Physicians with Clinical Nutrition Certification. Chiropractic interns, chiropractic assistants, holders of chiropractic temporary practice permits and others working under the authority or direction of a chiropractic physician may not perform any practice or function requiring clinical nutrition certification. ()

06. Sale, Transfer, or Other Distribution of Prescription Drugs Prohibited. Chiropractic physicians with clinical nutrition certification may obtain and administer prescription drug products to a patient only in accordance with this Section 707. Chiropractic physicians may not prescribe, sell, transfer, dispense, or otherwise distribute prescription drug products to any person or entity. Prescription drug products not administered to a patient are handled in accordance with Subsections 708.05, 708.06, and 708.07. ()

708. CLINICAL NUTRITION FORMULARY.

Chiropractic physicians certified in clinical nutrition may obtain and independently administer, during chiropractic practice, only the prescription drug products listed in this chiropractic clinical nutrition formulary and subject to the provisions hereof. ()

01. Chiropractic Clinical Nutrition Prescription Drug Formulary. Prescription drug products that may be used by chiropractic physicians with clinical nutrition certification are limited to the following: ()

- a. Vitamins: vitamin A, all B vitamins and vitamin C; ()
- b. Minerals: ammonium molybdate, calcium, chromium, copper, iodine, magnesium, manganese, potassium, selenium, sodium, and zinc; ()
- c. Fluids: dextrose, lactated ringers, plasma lyte, saline, and sterile water; ()
- d. Epinephrine; and ()
- e. Oxygen for use during an emergency or allergic reaction. ()

02. Sources of Clinical Nutrition Prescription Drug Products. Prescription drug products listed in the chiropractic clinical nutrition formulary may be obtained only by a chiropractic physician with clinical nutrition certification and only from a source licensed under Chapter 17, Title 54, Idaho Code, that is a wholesale distributor, a manufacturer, a pharmacy, compounding pharmacy, or an outsourcing facility and from no other source. ()

03. No Compounding of Prescription Drug Products. No vitamin or mineral may be compounded, as defined in Section 54-1705, Idaho Code, by a chiropractic physician. A compounded drug product containing two (2) or more of the vitamins or minerals approved in the chiropractic clinical nutrition formulary may be obtained for office use by a chiropractic physician with clinical nutrition certification only from an outsourcing facility licensed under Chapter 17, Title 54, Idaho Code or compounding pharmacy and from no other source. A chiropractic physician may not obtain or use in chiropractic practice a compounded drug product containing a prescription drug product that is not included in the chiropractic clinical nutrition formulary. ()

04. Limitations on Possession of Prescription Drug Products. Possession of prescription drug products without a valid prescription drug order by chiropractic physicians licensed pursuant to Chapter 7, Title 54, Idaho Code, and certified pursuant to Sections 54-708, and 54-717, Idaho Code, or their agents or employees are limited to: ()

- a. Only those prescription drug products listed in Sections 54-716, Idaho Code, and in the chiropractic clinical nutrition formulary; ()
- b. Only those quantities reasonably required for use in the usual and lawful course of the chiropractic physician's clinical nutrition practice based on the patient panel size and history of orders. ()

05. Prescription Drug Product Storage. Clinical nutrition prescription drugs must be stored in accordance with United States Pharmacopeia-National Formulary requirements in an area maintained and secured appropriately to safeguard product integrity and protect against product theft or diversion. ()

06. Expired, Deteriorated, Adulterated, Damaged, or Contaminated Prescription Drug Products. Expired, deteriorated, adulterated, damaged, or contaminated prescription drug products must be removed from stock and isolated for return, reclamation or destruction. ()

07. Compliance with Federal and State Requirements. In addition to the requirements of the Idaho Chiropractic Practice Act and rules of the Board, chiropractic physicians must comply with all federal and state laws, rules and policies governing possession, storage, record keeping, use, and disposal of prescription drug products. ()

709. MEDICAL WASTE.

Chiropractic physicians certified in clinical nutrition must dispose of medical waste during the practice of chiropractic clinical nutrition according to the following protocol: ()

01. Containers for Non-Sharp, Medical Waste. Medical waste, except for sharps, must be placed in disposable containers/bags that are impervious to moisture and strong enough to preclude ripping, tearing, or bursting under normal conditions of use. The bags must be securely tied so as to prevent leakage or expulsion of solid or liquid waste during storage, handling, or transport. The containment system must have a tight-fitting cover and be kept clean and in good repair. All bags used for containment of medical waste must be clearly identified by label or color, or both. ()

02. Containers for Sharps. Sharps must be placed in impervious, rigid, puncture-resistant containers immediately after use. After use, needles must not be bent, clipped or broken by hand. Rigid containers of discarded sharps must either be labeled or colored like the disposable bags used for other medical waste, or placed in such labeled or colored bags and disposed of according to container guidelines. ()

710. -- 999. (RESERVED)

Appendix A – Chiropractic Physicians Code of Ethics

PREAMBLE

This code of ethics set forth principles for the ethical practice of chiropractic. All chiropractic physicians are responsible for maintaining and promoting ethical practice and otherwise complying with the terms of this code of ethics. To this end, the chiropractic physician must act in the best interest of the patient. This code of ethics is binding on all chiropractic physicians.

1. Duty to Report

A. It is the duty of every licensee to notify the Board through the Division of Occupational and Professional Licenses of any violation of the Chiropractic Act or Board Rules, if the licensee has personal knowledge of the conduct.

B. If a judgment is entered against a licensee in any court, or a settlement is reached on a claim involving malpractice exceeding fifty thousand dollars (\$50,000), a licensee must report that fact to the Board within thirty (30) days. The licensee may satisfy the provision of this subsection if he/she provides the Board with a copy of the judgment or settlement.

If convicted of a felony or a crime involving dishonesty, theft, violence, habitual use of drugs or alcohol, or sexual misconduct, the licensee must report that fact to the board within thirty (30) days following the conviction.

2. Advertising of Research Projects

Advertisement of Affiliation with Research Projects. If a licensee advertises any affiliation with a research project, he must make a written statement of the objectives, cost and budget of the project, and the person conducting the research. Such statements are to be made available at the request of the Board, to scientific organizations, and to the general public. The advertisement must indicate that it is supported by clinical research. Any willful failure to comply with these requirements will be deemed false and deceptive advertising under rule 450. Licensee must comply with all state and federal laws and regulations governing research projects on humans, and will obtain "Institutional Review Board" (IRB) approval as established and set forth in the U.S. Code of Federal Regulations, Title 45, Part 46, Subpart A (45 CFR 46.101-46-505).

3. Sexual Misconduct

The doctor-patient relationship requires the chiropractic physician to exercise utmost care that he or she will do nothing to exploit the trust and dependency of the patient. Sexual misconduct is a form of behavior that adversely affects the public welfare and harms patients individually and collectively. Sexual misconduct exploits the doctor-patient relationship and is a violation of the public trust. This section of the Code of Ethics shall not apply between a

chiropractor and their spouse.

For the purposes of this subsection, sexual misconduct is divided into sub-categories based upon the severity of the conduct:

A. Sexual Impropriety. Any behavior such as gestures, expressions, and statements which are sexually suggestive or demeaning to a patient, or which demonstrate a lack of respect for a patient's privacy.

B. Sexual Violation. Physician-patient contact of a sexual nature, whether initiated by the physician or the patient.

C. A chiropractic physician shall wait at least one (1) year (“waiting period”) following the termination of a professional doctor-patient relationship, before beginning any type of sexual relationship with a former patient.

4. Prepaid Funds

A chiropractic physician shall promptly refund any unearned fees within thirty (30) days upon request and cancellation of the prepaid contract. A full accounting of the patient account shall be provided to the patient at the time of the refund or upon request.

**24.06.01 – RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS
AND OCCUPATIONAL THERAPY ASSISTANTS**

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-3717(2), Idaho Code. ()

001. SCOPE.

These rules govern the practice of occupational therapy in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Client-Related Tasks. Client-related tasks are routine tasks during which the aide may interact with the client but does not act as a primary service provider of occupational therapy services. ()

02. Direct Line-of-Sight Supervision. Direct line-of-sight supervision requires the supervisor's physical presence when services are being provided to clients by the individual under supervision. ()

03. Direct Supervision. Direct supervision requires daily, in-person contact by the supervisor at the site where services are provided to clients by the individual under supervision. ()

04. Evaluation. Evaluation is the process of obtaining and interpreting data necessary for treatment, which includes, but is not limited to, planning for and documenting the review, specific observation, interviewing, and administering data collection procedures, which include, but are not limited to, the use of standardized tests, performance checklists, and activities and tasks designed to evaluate specific performance abilities. ()

05. General Supervision. General Supervision requires in-person or synchronous interaction at least once per month by an occupational therapist and contact by other means as needed. Other means of contact include, but are not limited to, electronic communications such as email. ()

06. Routine Supervision. Routine Supervision requires in-person or synchronous interaction at least once every two (2) weeks by an occupational therapist and contact by other means as needed. Other means of contact include, but are not limited to, electronic communications such as email. ()

011. SUPERVISION.

An occupational therapist shall supervise and be responsible for the patient care given by occupational therapy assistants, limited permit holders, aides, and students. An occupational therapist's or occupational therapy assistant's failure to provide appropriate supervision in accordance with these rules is grounds for discipline. ()

01. Occupational Therapy Assistants. Occupational therapy assistants must be supervised by an occupational therapist. General Supervision must be provided at a minimum. ()

02. Limited Permit Holders. Limited permit holders must be supervised by an occupational therapist or occupational therapy assistant. Direct supervision must be provided at a minimum. The occupational therapist is responsible for the overall use and actions of the limited permit holder. ()

03. Occupational Therapy Aides. Occupational therapy aides do not provide skilled occupational therapy services. An aide must be trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the aide. The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the occupational therapy aide to carry out non-client related and client-related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan. ()

a. The following factors must be present when an occupational therapist or occupational therapy assistant assigns a selected client-related task to the aide: ()

i. The outcome of the assigned task is predictable; ()

ii. The situation of the client and the environment is stable and will not require that judgment, interpretations, or adaptations be made by the aide; ()

iii. The client has demonstrated some previous performance ability in executing the task; and

- ()

iv. The task routine and process have been clearly established. ()
- b. Before assigning client-related and non-client related tasks to an aide, the occupational therapist or occupational therapy assistant must ensure that the aide is able to competently perform the task. ()
- c. The occupational therapist or occupational therapy assistant must train the aide to perform client-related and non-client related tasks at least once per month. ()
- d. An aide must perform client-related tasks under the direct line-of-sight supervision of an occupational therapist or occupational therapy assistant. ()
- e. Occupational therapists and occupational therapy assistants must document all training and supervision of an aide. ()

04. Students. Students must be under the direct on-site supervision of an occupational therapist or occupational therapy assistant who is appropriately supervised by an occupational therapist. The occupational therapist is responsible for the overall use and actions of the student. ()

05. Supervision Requirements. Supervision is the direction and review of service delivery, treatment plans, and treatment outcomes. Unless otherwise specified in this rule, General Supervision is the minimum level of supervision that must be provided. Methods of supervision may include, but are not limited to, Direct Line-of-Sight Supervision, Direct Supervision, Routine Supervision, or General Supervision, as needed to ensure the safe and effective delivery of occupational therapy. ()

- a. An occupational therapist and an occupational therapy assistant must ensure the delivery of services by the individual being supervised is appropriate for client care and safety and must evaluate: ()

 - i. The complexity of client needs; ()
 - ii. The number and diversity of clients; ()
 - iii. The skills of the occupational therapist assistant, aide, or limited permit holder; ()
 - iv. The type of practice setting; ()
 - v. The requirements of the practice setting; and ()
 - vi. Other regulatory requirements applicable to the practice setting or delivery of services. ()
- b. Supervision must be documented in a manner appropriate to the supervised position and the setting. The documentation must be kept as required by Section 013 of these rules. ()
- c. Supervision must include consultation at appropriate intervals regarding evaluation, intervention, progress, reevaluation and discharge planning for each patient. Consultation must be documented and signed by the supervisor and supervisee. ()

012. RECORD KEEPING. Occupational therapists and occupational therapy assistants must maintain adequate records that are consistent with the standard business practices of the setting in which the licensee is providing occupational therapy or supervision and that show necessary client care, supervision provided by the licensee, and compliance with regulatory requirements applicable to the setting. ()

013. -- 019. (RESERVED)

020. GENERAL QUALIFICATIONS FOR LICENSURE.

01. Applicant. The Board may refuse licensure if it finds the applicant has engaged in conduct prohibited by Section 54-3718, Idaho Code; provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. ()

02. Education. Each applicant shall provide evidence of successful completion of the academic requirements of an educational program in occupational therapy that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or by a predecessor or successor organization recognized by the United States Secretary of Education, the Council for Higher Education Accreditation, or both. ()

03. Examination. Each applicant shall either pass an examination required by the Board or shall be entitled to apply for licensure by endorsement or limited permit. ()

a. The written examination shall be the examination conducted by the National Board for Certification in Occupational Therapy, Inc. (NBCOT) and the passing score shall be the passing score established by the NBCOT. ()

b. An applicant for licensure by examination who fails to pass the examination on two (2) attempts must submit a new application. ()

021. APPLICATION FOR LICENSURE.

01. Licensure by Endorsement. An applicant may be eligible for licensure without examination if he or she meets all of the other qualifications prescribed in Section 54-3709, Idaho Code, and also holds a current valid license or registration from some other state, territory or district of the United States, or certified by the National Board for Certification in Occupational Therapy providing they meet Idaho standards and are equivalent to the requirements for licensure pursuant to these rules. ()

02. Limited Permit. The Board may issue a Limited Permit to a graduate occupational therapist or graduate occupational therapy assistant who meets the requirements set forth by Sections 54-3706(1) and 54-3706(2), Idaho Code, who has not yet passed the examination as required in Paragraph 020.04.a. of these rules. ()

a. A Limited Permit shall only allow a person to practice occupational therapy in association with and under the supervision of a licensed occupational therapist. ()

b. A Limited Permit shall be valid six (6) months from the date of issue. ()

c. A Limited Permit may be extended by the Board for good cause. ()

04. Temporary License. The Board may issue a temporary license to a person applying for licensure as an occupational therapist or an occupational therapy assistant if the person is currently licensed and in good standing to practice in another jurisdiction and meets that jurisdiction's requirements for licensure by endorsement. ()

a. A temporary license shall automatically expire once the Board has processed the person's application for licensure and issued or denied the applied-for license, or in six (6) months after the date on which the Board issued the temporary license, whichever is sooner. ()

05. Personal Interview. The Board may, at its discretion, require the applicant to appear for a personal interview. ()

022. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.

An applicant who, or whose license, has a criminal conviction, finding of guilt, withheld judgment, or suspended sentence for any crime under any municipal, state, or federal law other than minor traffic offenses, or has been subject to discipline by any state professional regulatory agency or professional organization must submit with the application a written statement and any supplemental information establishing the applicant's current suitability for

licensure. ()

01. Consideration of Factors and Evidence. The Board shall consider the factors set forth in Section 67-9411, Idaho Code. ()

02. Interview. The Board may, at its discretion, grant an interview of the applicant. ()

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing the applicant's current suitability for licensure. ()

023. -- 024. (RESERVED)

025. CONTINUING EDUCATION.

01. Requirement. Each licensee must successfully complete, in the twelve (12) months preceding license renewal, a minimum of ten (10) contact hours of continuing education, as approved by the Board. ()

a. One (1) contact hour is equivalent to one (1) clock hour for the purpose of obtaining continuing education. ()

b. The Board will waive the continuing education requirement for the first license renewal after initial licensure. ()

02. Attestation. The licensee attests, as part of the annual license renewal process, that the licensee is in compliance with the continuing education requirement. ()

03. Courses and Activities. At least five (5) of the contact hours directly relate to the delivery of occupational therapy services. The remaining contact hours are germane to the practice of occupational therapy and relate to other areas of a licensee's practice. A licensee may take online or home study courses or self-competency assessments, as long as a course completion certificate is provided. ()

a. The delivery of occupational therapy services may include: models, theories or frameworks that relate to client care in preventing or minimizing impairment, enabling function within the person/environment or community context. ()

b. Other areas may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to the licensee's practice. ()

c. Continuing education acceptable to the Board includes, but is not limited to, programs or activities sponsored by the American Occupational Therapy Association (AOTA), the Idaho Occupational Therapy Association (IOTA), or National Board for Certification in Occupational Therapy (NBCOT); post-professional coursework completed through any approved or accredited educational institution; or otherwise meet all of the following criteria: ()

i. The program or activity contributes directly to professional knowledge, skill, and ability; ()

ii. The program or activity relates directly to the practice of occupational therapy; and ()

iii. The program or activity must be objectively measurable in terms of the hours involved. ()

04. Carry Over and Duplication. A maximum of ten (10) continuing education hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. If the licensee completes two (2) or more courses having substantially the same content during any one (1) renewal period, the licensee only will receive continuing education credit for one (1) of the courses. ()

05. Documentation. A licensee need not submit documentation of continuing education when the licensee renews a license. However, a licensee will maintain documentation verifying that the licensee has completed

the continuing education requirement for a period of four (4) years from the date of completion. A licensee must submit the verification documentation to the Board if the licensee is audited by the Board. A percentage of occupational therapists and certified occupational therapy assistants will be audited every year. Documentation for all activities must include licensee's name, date of activity or when course was completed, provider name, course title, description of course/activity, and number of contact hours. ()

a. Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance. ()

b. In-service training. The required documentation for this activity is a certificate or documentation of attendance. ()

c. Professional conference or workshop. The required documentation for this activity is a certificate or documentation of attendance. ()

d. Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript. ()

e. Publications. The required documentation for this activity is a copy of the publication. ()

f. Presentations. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period. ()

g. Interactive online courses and evidence-based competency assessments. The required documentation for this activity is a certificate or documentation of completion. ()

h. Development of instructional materials incorporating alternative media such as video, audio and/or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media/software materials must be available if requested during audit process. ()

i. Professional manuscript review. The required documentation for this activity is a letter from the publishing organization verifying review of manuscript. A maximum of five (5) hours is allowed per renewal period for this category. ()

j. Guest lecturer for occupational therapy related academic course work (academia not primary role). The required documentation for this activity is a letter or other documentation from instructor. ()

k. Serving on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of five (5) hours is allowed per renewal period for this category. ()

l. Level II fieldwork direct supervision of an occupational therapy student or occupational therapy assistant student by site designated supervisor(s). The required documentation for this activity is the name of student(s), letter of verification from school, and dates of fieldwork. ()

06. Exemptions. A licensee may request an exemption from the continuing education requirement for a particular renewal period for reasonable cause. The licensee must provide any information requested by the Board to assist in substantiating the licensee's need for a claimed exemption: ()

026. -- 029. (RESERVED)

030. INACTIVE STATUS.

01. Request for Inactive Status. Occupational Therapists and Occupational Therapy Assistants requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. ()

- 02. Inactive License Status.** ()
- a.** Licensees may not practice in Idaho while on inactive status. ()
- b.** All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho, subject to Subsection 030.03 of these rules. ()
- 03. Reinstatement to Full Licensure from Inactive Status.** ()
- a.** Return to Active Status of License - Inactive for Five (5) or Fewer Years. An inactive license holder whose license has been inactive for five (5) or fewer years may convert from inactive to active license status by: ()
- i.** Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ()
- ii.** Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ()
- b.** Return to Active Status of License - Inactive for Greater than Five (5) Years. An inactive license holder whose license has been inactive for greater than five (5) years may convert from inactive to active license status by: ()
- i.** Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ()
- ii.** Providing proof that the licensee has actively engaged in the practice of occupational therapy in another state or territory of the United States for at least three (3) of the immediately preceding five (5) years, or provide proof that the licensee is competent to practice in Idaho. ()
- iii.** The Board may consider the following factors when determining proof of competency: ()
- (1) Number of years of practice prior to transfer from active status; ()
- (2) Employment in a field similar to occupational therapy; and ()
- (3) Any other factors the Board deems appropriate. ()
- 031. (RESERVED)**
- 032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.**
- 01. Grounds for Discipline.** In addition to the grounds set forth in Section 54-3718, Idaho Code, applicants may be denied or refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: ()
- a.** Obtaining a license by means of fraud, misrepresentation, or concealment of material facts; ()
- b.** Being guilty of unprofessional conduct or violating the Code of Ethics in Appendix A, incorporated herein by reference governing said licensees, including the provision of health care which fails to meet the standard of health care provided by other qualified licensees in the same community or similar communities, taking into account the licensee’s training, experience and the degree of expertise to which he holds himself out to the public; ()
- c.** The unauthorized practice of medicine; ()

d. Failure to properly supervise persons as required in these rules. ()

02. Penalties. In addition to any other disciplinary sanctions the Board may impose against a licensee, the Board may impose a fine of up to one thousand dollars (\$1,000) per violation, or in such greater amount as the Board may deem necessary to deprive the licensee of any economic advantage gained by the licensee through the conduct that resulted in discipline and that reimburses the Board for costs of the investigation and disciplinary proceedings. ()

033. -- 040. (RESERVED)

041. FEES.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL FEE (Not to Exceed)
Initial Licensure for Occupational Therapists	\$80	\$40
Initial Licensure for Occupational Therapy Assistants	\$60	\$30
Limited Permit or Temporary License	\$25	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code.	
Inactive License Renewal	\$20	
Inactive to Active License	The difference between the current inactive and active license renewal fees	

042. --999. (RESERVED) ()

24.09.01 – RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

000. LEGAL AUTHORITY.

These rules promulgated pursuant to Section 54-1604, Idaho Code. ()

001. SCOPE.

These rules govern the practice of nursing home administration in Idaho. ()

002. -- 099. (RESERVED)

100. EXAMINATION FOR LICENSURE.

01. Examination Fee. The examination fee for the national examination will be in the amount as determined by the National Association of Long Term Care Administration Boards and is paid to the entity administering said examination. The examination fee is in addition to the license fee provided for in Section 54-1604, sub-paragraph (g), Idaho Code. ()

02. Applicant History. An applicant who has a conviction, finding of guilt, withheld judgment, or suspended sentence for any felony or any crime related to an applicant's fitness for licensure, or whose license has been subject to discipline in any state, territory, or country must submit with the application a written statement and any supplemental information establishing the applicant's current suitability for licensure. The Board may consider the factors set forth in Section 67-9411, Idaho Code. ()

03. Contents of Exam, Passing Scores. An applicant must pass an examination issued by NAB, and an examination pertaining to Idaho law and rules governing nursing homes administered by the Board. The passing score of the Idaho Laws and Rules Examination is seventy-five percent (75%). ()

04. Date and Location of Exam. Examinations are held at the location and at the times determined by the entity administering the national examination. The state examination is a take-home examination and is returned to the Board. ()

101. -- 199. (RESERVED)

200. CONTINUING EDUCATION REQUIREMENTS.

01. Educational Requirements. In order to qualify as continuing education, a seminar or course of study will be relevant to nursing home administration as determined by the Board and sponsored by accredited universities or colleges, State or National health related associations, and/or approved by NCERS (National Continuing Education Review Service). ()

02. Renewal of License. Applicants for renewal of license are required to complete a minimum of twenty (20) clock hours of approved courses within the preceding twelve-month (12) period. Licensees are not required to comply with this requirement during the first year in which they become licensed under this chapter. ()

03. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of twenty (20) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one (1) renewal year. ()

04. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and will provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ()

201. -- 299. (RESERVED)

300. ENDORSEMENT.

Each applicant for licensure by endorsement is required to document compliance with each of the following requirements. ()

01. A Valid License. Hold a valid and current nursing home administrator license issued in another

state or jurisdiction with substantially equivalent licensing standards. ()

02. Experience/Education. ()

a. One thousand (1,000) hours of experience as an administrator in training in another state; or ()

b. A total of one thousand (1,000) hours of combined experience obtained in an administrator in training program and from practical experience as an administrator in another state; or ()

c. A master's degree in health administration related to long-term care from an accredited institution; or ()

d. A master's degree in health administration or business administration with a healthcare emphasis from an accredited institution and one (1) year management experience in long-term care. ()

03. National Examination. Has taken and successfully passed the NAB examination. ()

04. State Examination. Has taken and successfully completed the state of Idaho examination. ()

05. Criminal History. Applicant is subject to Section 100.02 of these rules. ()

301. -- 399. (RESERVED)

400. NURSING HOME ADMINISTRATORS-IN-TRAINING.

01. Supervised Hour Requirements. An individual must successfully complete one thousand (1,000) hours under the direct supervision of a licensed nursing home administrator in compliance with Section 54-1610, Idaho Code, and these rules in order to be eligible to take the examination. ()

02. Trainees. A trainee must work on a full time basis in any capacity in an Idaho licensed nursing home setting. Full time shall be at least a thirty-two (32) hour per week work schedule with consideration for normal leave taken. ()

a. Each trainee shall register with the Board as a Nursing Home Administrator-In-Training (AIT) by submitting an application provided by the Board together with the required fee. The effective date of each AIT program shall be the date the Board approves the application. ()

b. Reports for those trainees employed in a nursing home must be submitted to the Board after completion of each five hundred (500) hour increment and reflect that the preceptor of the trainee has instructed, assisted and given assignments as deemed necessary to fulfill the requirements of Subsection 400.03. ()

03. Nursing Home Administrator-in-Training Requirements. A Nursing Home Administrator-in-Training shall be required to train in all domains of nursing home administration including the following: ()

a. Customer care, support, and services. ()

b. Human resources. ()

c. Finance. ()

d. Environment. ()

e. Management and leadership. ()

f. Completion of a specialized course of study in nursing home long-term health care administration approved by NAB or otherwise approved by the Board. ()

04. Facility Administrator. The trainee must spend no less than thirty-two (32) hours a month with the preceptor in a training and/or observational situation in the five (5) domains of nursing home administration as outlined in Subsection 400.03. Time spent with the preceptor must be in addition to the full time work that the trainee must perform under Subsection 400.02, unless the Administrator-in-Training role is designated as a full time training position. Collectively, during the training period, reports must reflect particular emphasis on all five (5) domains of nursing home administration during the time spent in the nursing home. ()

05. Preceptor Certification. ()

a. A nursing home administrator who serves as a preceptor for a nursing home administrator-in-training must be certified by the Board of Examiners of Nursing Home Administrators. The Board will certify the Idaho licensed nursing home administrator to be a preceptor who: ()

i. Is currently practicing as a nursing home administrator and who has practiced a minimum of two (2) consecutive years as a nursing home administrator; and ()

ii. Who successfully completes a six (6) clock hour preceptor orientation course approved by the Board. ()

b. The orientation course will cover the philosophy, requirements and practical application of the nursing home administrator-in-training program and a review of the six (6) phases of nursing home administration as outlined in Subsection 400.03. ()

c. The preceptor must be re-certified by the Board every ten (10) years. ()

401. -- 449. (RESERVED)

450. ADMINISTRATOR DESIGNEE QUALIFICATION.

In order to practice as an administrator designee, an individual shall register with the Board as an Administrator Designee by submitting an application and providing documentation of each the following requirements. ()

01. Criminal History. Applicant is subject to Section 67-9411, Idaho Code. ()

02. Education. Provide proof of either: ()

a. A bachelors degree from an approved college or university, or ()

b. Two (2) years of satisfactory practical experience in nursing home administration or a related health administration area for each year of the required education as set forth in Section 54-1605(3), Idaho Code; ()

04. Experience. Provide proof of having one (1) year of management experience in a skilled nursing facility. Experience documented in Subsection 450.03.b. may also be used to meet this requirement. ()

05. Authorization. Submit an agreement signed by an Idaho Licensed Nursing Home Administrator who will act as a consultant to assist the designee in administrating the facility. ()

451. -- 499. (RESERVED)

500. PERMITS.

01. Requirements for Issuance. A temporary permit may be issued upon submission of an endorsement application evidencing a license in good standing in another state and payment of fees. The permit shall be valid until the Board acts upon their endorsement application. No more than one (1) temporary permit may be granted to any applicant for any reason. ()

02. Issuance of a Temporary Permit Does Not Obligate the Board. Issuance of a temporary permit does not obligate the board to subsequently issue a license. Issuance of a subsequent license depends upon a successful application to the Board. ()

501. -- 599. (RESERVED)

600. FEES.

FEE	AMOUNT (Not to Exceed)
Original Application	\$200
Original License	\$200
Annual Renewal	\$200
Endorsement Application	\$200
Temporary Permit	\$100
Administrator-in-training	\$100
License Reinstatement	\$100

()

601. -- 999. (RESERVED)

24.10.01 – RULES OF THE STATE BOARD OF OPTOMETRY

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-1509, Idaho Code. ()

001. SCOPE.

These rules govern the practice of optometry in Idaho. ()

002. DEFINITIONS.

01. Low Vision. Refer to Section 54-1501(5), Idaho Code, correcting defects may include low vision but is not limited to low vision rehabilitation. ()

02. Opticianry. The professional practice of filling prescriptions from a licensed optometrist or ophthalmologist for ophthalmic lenses, contact lenses, and any other ophthalmic device used to improve vision. Opticianry does not include prescriptive authority. ()

003. -- 099. (RESERVED)

100. LICENSURE AND REGISTRATION.

01. Method of Application- Examination of Applicants. Applications for license shall be made on forms approved by the Board. ()

02. Application. The application must be accompanied by the required fee, a complete transcript of credits from any college of optometry attended, a photocopy of any diplomas granted by any college of optometry, and a copy of certified results establishing successful passage of the required examinations. ()

03. Approved Exam. The written and the practical portions of the Idaho examination shall be parts one through three (1-3) of the National Board of Examiners in Optometry Examination (NBEOE). A passing grade for the NBEOE shall be that established by the test provider. ()

04. Licensure by Endorsement. The right to be granted a license to practice optometry in Idaho is subject to the following conditions set out below: ()

a. The submission of a completed application meeting the requirements of Subsection 100.02 including the applicable fee. ()

b. That the license or certificate of registration of the applicant shall be in good standing with any state or country or not subject to any pending or unresolved licensure action in any state or country. ()

c. For those licensed in another state the applicant must document to the Board for approval, the education, training, and examination for diagnostic and therapeutic privileges in the other state. ()

05. Continuing Education In Optometry. ()

a. Hours Required. Each optometrist licensed by the state of Idaho shall attend in each calendar year prior to license renewal, a minimum of eighteen (18) full hours of approved optometric continuing education courses or meetings. All Council on Optometric Practitioners Education (COPE) and Accreditation Council for Continuing Medical Education (ACCME) accredited courses are approved for continuing education credit. ()

b. Courses. The Board allows credits to be asynchronous and synchronous that are germane to the practice of optometry. No more than nine (9) hours of continuing education shall be asynchronous. ()

c. 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. ()

d. 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, documentation, or electronic verification 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. ()

101. -- 149. (RESERVED)

150. APPROVAL OF SCHOOLS OF OPTOMETRY.

The State Board of Optometry recognizes as reputable and in good standing, the schools and colleges of optometry that have met the standards set by the Accreditation Council on Optometric Education, or its successor agency, a list of which may be obtained from the Division of Occupational and Professional Licenses website. ()

151. -- 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Standards of Professional Conduct. Licensees must comply with the following standards of professional conduct: ()

a. Practicing optometry in a manner which meets the standard of optometric care provided by other qualified licensees in the same or similar community, taking into account education, training, and experience. ()

b. Employing only those techniques or methods of practice in treating or prescribing to a patient for which the licensee has the necessary education, training, and experience. ()

c. Referring a patient suffering from any apparent or suspected pathological condition to a person competent and licensed to properly treat or diagnose the condition. ()

d. Verifying the specifications of all lenses provided to a patient and advising a patient of possible danger when a lens provided to the patient does not meet impact resistant standards set forth in 21 CFR 801.410. ()

02. Vision Therapy. Any person who assesses, diagnoses, treats, or prescribes treatment for conditions of the visual system or manages a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises or who holds him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry. ()

03. Prescriptions for Spectacles and Contact Lenses. Eyeglasses and contact lenses, including plano or cosmetic contact lenses, may only be dispensed upon a current prescription issued by an optometrist or medical physician. Every prescription written or issued by an optometrist practicing in Idaho shall contain at least the following information: ()

a. Prescription for Spectacles. Prescriptions for spectacles must contain the following: Sphere, cylinder, axis, prism power, and additional power, if applicable. The standard prescription must be at least one (1) year from the date the prescription was originally issued. ()

b. All Prescriptions for Rigid/Soft Contact Lenses. All prescriptions for contact lenses must contain at least the following information: base curve, lens manufacturer or "brand" name, overall diameter, power; and the standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. A shorter prescription period may be allowed when based upon a documented medical condition. ()

04. Expired Contact Lens Prescription. A person may not fill an expired contact lens prescription. ()

05. Fitting and Dispensing Contact Lenses. ()

a. Contact lenses may be fitted only by an optometrist, or licensed physician. ()

b. An ophthalmic dispenser may dispense contact lenses on a fully written contact lens prescription issued by an optometrist or licensed physician. ()

c. Notwithstanding Subsection 200.05.b., an optometrist, or licensed physician who issues a contact lens prescription remains professionally responsible to the patient. ()

06. Preceptorship Program. An optometrist may use a student of optometry in their office under their direct supervision for educational purposes. ()

07. The Right to Obtain and Use Pharmaceutical Agents. The right to obtain and use pharmaceutical agents for use in diagnosis and/or treatment of another in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: ()

a. Optometrists can prescribe, administer, and dispense therapeutic pharmaceutical agents, and use only those listed below: ()

i. All medications for use in the diagnosis of and/or conditions of the human eye and/or eyelid. ()

ii. All over-the-counter agents. ()

b. In order to prescribe, administer and dispense the therapeutic medications a person must meet the requirements set out below: ()

i. License in good standing, and successful passage of the “Treatment and Management of Ocular Diseases” exam. ()

201. -- 299. (RESERVED)

300. DISCIPLINE.

In addition to the grounds for discipline set forth in Idaho Code, every person licensed by the Board is subject to discipline upon any of the following grounds: ()

01. Gross Incompetence. Engaging in practice or behavior which demonstrates a manifest inability or unreasonable lack of professional skill to practice his or her profession, including performing procedures without having successfully completed the necessary education, training, or certification. ()

02. Failing to Comply with Standards of Professional Conduct as set forth in these Rules. ()

03. Failing to Maintain Adequate Records. Adequate records mean legible records which contain, at a minimum, evidence of examination and treatment plan, copies of prescriptions issued to the patient or client and copies of statements of charges delivered or provided to the patient or client. Must be in compliance with the Health Insurance Portability and Accountability Act (HIPPA). ()

04. Illegal Prescription Sale, Administration, Distribution, or Use of Drugs. Prescribing, selling, administering, distributing, giving, or using drugs legally classified as a controlled substance or as an addictive or dangerous drug for other than accepted diagnostic or therapeutic purposes. ()

05. Other Discipline. Inability to obtain or renew a license or disciplinary action against a license to practice optometry by any other state or jurisdiction unless it can be shown that such action was not related to the competence of the person to practice optometry or to any conduct which constitutes grounds for discipline by the Board. ()

06. Confidentiality. Failing to safeguard the confidentiality of patient records or other medical information pertaining to identifiable patients, except as required or authorized by law. ()

07. Prescription and Records. Failure to release a spectacle or contact lens prescription to a patient or

to transfer patient records to another provider when requested to do so by the patient or the patient's legally designated representative. ()

08. Failure to Cooperate. Failing to cooperate with the Board during any investigation or disciplinary proceeding, even if such investigation or disciplinary proceeding does not personally concern the particular licensee. ()

301. -- 399. (RESERVED)

400. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
License Application	\$100
Annual Fund	\$75
Annual Renewal	\$75
Reinstatement	As provided in Section 67-2614, Idaho Code

()

401. -- 999. (RESERVED)

24.11.01 – RULES OF THE STATE BOARD OF PODIATRY

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-605, Idaho Code. ()

001. SCOPE.

These rules govern the practice of podiatry in Idaho. ()

002. INCORPORATION BY REFERENCE.

The document titled American Podiatric Medical Association’s Code of Ethics as published by the American Podiatric Medical Association, dated March 2013 and referenced in Section 500, is herein incorporated by reference and is available for review at the Board’s office and on the Board’s web site at <https://apps.dopl.idaho.gov/DOPLPortal/BoardAdditional.aspx?Bureau=POD&BureauLinkID=38>. ()

003. -- 009. (RESERVED)

010. DEFINITIONS AND STANDARDS.

01. Reputable School. A “reputable school” of podiatry is defined as an approved podiatry school located within the United States or Canada and designated as such by the Council on Podiatric Medical Education and the American Podiatric Medical Association. ()

011. -- 149. (RESERVED)

150. PRE-PROFESSIONAL EDUCATION.

All applicants must provide official documentation of credits granted for at least two (2) full years of general college study in a college or university of recognized standing. ()

151. PROFESSIONAL EDUCATION.

All applicants must possess evidence of graduation from four (4) full years of study in a reputable school of podiatry, as defined in Subsection 010.02 of these rules. ()

152. PODIATRIC RESIDENCY.

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

02. Submission of Verification of Residency Curriculum. Notwithstanding the provisions of Subsection 152.01, a candidate must provide directly from the residency program such official documentation of completion of the entire curriculum as the board may require. Any deviation of this requirement must be approved by the Board. ()

153. -- 199. (RESERVED)

200. CREDENTIALS TO BE FILED BY ALL APPLICANTS.

01. Certified Copy of National Board Results. A copy of the applicable National Board results that has been certified as true and correct by the examining entity. ()

02. Educational Certificate Requirement. Each applicant must provide official documentation of a collegiate education of not less than two (2) years in an accredited college or university giving instruction in letters and sciences. ()

03. Diploma. Certified photostatic copy of diploma granted by any college of podiatry and official certified transcripts indicating graduation from the program. ()

04. Residency Certification Requirement. All applications must include certification of completion of a residency as defined in Rule 152. ()

201. -- 299. (RESERVED)

300. FEES.

All fees are non-refundable; if a license is not issued, the license fee will be refunded.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$200
Original License	\$400
Written Examination	Set by National Examining Entity
Annual Renewal	\$500
Inactive License Annual Renewal	\$250

()

301. -- 399. (RESERVED)

400. LICENSURE BY EXAMINATION.

01. Examination of Applicants. All applicants must successfully pass all parts of the American Podiatric Medical Licensing Examination developed and administered by the National Board of Podiatric Medical Examiners. ()

02. Passing Grade. A passing grade in all subjects examined is the grade established by the examination provider. ()

401. LICENSURE BY ENDORSEMENT.

Under Section 54-613, Idaho Code, applicants for licensure by endorsement may be granted a license upon the approval of the Board. Each applicant for licensure by endorsement must provide documentation for each of the following before licensure will be considered: ()

01. Certification of License. Certification of having maintained a current license or other authority to practice issued by a regulatory board of Podiatry in any state or territory. ()

02. Credentials. Credentials as required in Subsections 200.01 through 200.04. ()

03. Examination. Successful passage of a written licensure examination covering all those subjects noted in Section 54-606, Idaho Code. Official certification of examination must be received by the board directly from: ()

a. The applicant's state or territory of licensure; or ()

b. The national board of podiatric medical examiners. ()

04. Residency. Proof of completion of the residency requirement as set forth in Subsection 200.04 of this rule. However, if the applicant graduated from a college of podiatry prior to 1993, this requirement will be waived. ()

05. Practical Experience. Having practiced podiatry under licensure for three (3) of the last five (5) years immediately prior to the date of application. ()

06. Continuing Education. Having completed at least fifteen (15) hours of continuing education germane to the practice of podiatry during the twelve (12) months prior to the date of application. ()

07. Disciplinary Action. Has not been the subject of any disciplinary action including pending or unresolved licensure actions within the last five (5) years immediately prior to application and has never had a license to practice podiatry revoked or suspended either voluntarily or involuntarily in any jurisdiction. ()

402. TEMPORARY LICENSES.

No temporary licenses will be granted for the practice of podiatry in Idaho. ()

403. -- 409. (RESERVED)

410. ORIGINAL APPLICATION.

The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. ()

411. -- 424. (RESERVED)

425. INACTIVE STATUS.

01. Request for Inactive Status. Each person requesting an inactive status during the renewal of their active license must submit a written request and pay the inactive license fee. ()

02. Inactive License Status. ()

a. All continuing education requirements will be waived during the time that a licensee maintains an inactive license in Idaho. ()

b. When the licensee desires active status, the licensee must show acceptable fulfillment of continuing education requirements for the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee. ()

426. -- 449. (RESERVED)

450. SCOPE OF PRACTICE.

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

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

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

b. Ankle and rearfoot arthrodesis. ()

c. Nerve surgery of the leg. ()

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

e. Autogenous bone grafting. ()

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

451. -- 499. (RESERVED)

500. STANDARDS OF THE ETHICAL PRACTICE OF PODIATRY.

The standards for the ethical practice of podiatry is the American Podiatric Medical Association's Code of Ethics as referenced in Section 002 of these rules and are hereby adopted and apply to all practitioners of podiatry. ()

501. -- 549. (RESERVED)

550. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed podiatrist for each violation of Sections 54-608 and 54-609, Idaho Code. ()

02. Costs and Fees. The Board may order a licensed podiatrist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Sections 54-608 and 54-609, Idaho Code. ()

551. -- 699. (RESERVED)

700. CONTINUING EDUCATION.

01. Education Requirement for License Renewal. Each podiatrist licensed by the state of Idaho must complete in each twelve-month period preceding the renewal of a license to practice podiatry in Idaho, a minimum of fifteen (15) full hours of podiatry continuing education. Continuing education includes lectures, conferences, seminars, moderator-guided panel discussions, clinical and practical workshops, internet based learning and home study. Education must be germane to the practice of podiatry; and ()

a. Approved by the Council on Podiatric Medical Education; or ()

b. Otherwise approved by the Board. ()

02. Submission of License Renewal Application Form. Each licensed Idaho podiatrist will be furnished a license renewal application form by the Division of Occupational and Professional Licenses on which each podiatrist will be required to certify by signed affidavit that compliance with the continuing education requirements has been met and must submit the renewal application together with the required fees to the Division. ()

03. Verification of Completion. A licensee must maintain verification of completion by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours completed by the licensee. This verification must be maintained by the licensee and provided to the Board upon the request of the Board or its agent. The Board will conduct random audits to monitor compliance. Failure to provide proof of meeting the continuing education upon request of the Board will be grounds for disciplinary action. ()

04. Carryover of Continuing Education Hours. Continuing education not claimed for credit in the current renewal year may be credited for the next renewal year. A maximum of fifteen (15) hours may be carried forward from the immediately preceding year. ()

05. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or for other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. ()

701. -- 999. (RESERVED)

24.12.01 – RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Section 54-2305, Idaho Code. ()

001. SCOPE.

These rules govern the practice of psychology in Idaho. ()

002. INCORPORATION BY REFERENCE.

The current and updated document titled “Ethical Principles of Psychologists and Code of Conduct,” published by the American Psychological Association (APA) is herein adopted and incorporated by reference and is available on the APA website: <https://www.apa.org/ethics/code>. ()

003. DEFINITIONS.

01. **Geriatric Patient.** A person sixty-five (65) years of age or older. ()

02. **Mental, Nervous, Emotional, Behavioral, Substance Abuse, and Cognitive Disorders.** Disorders, illnesses, or diseases listed in either the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or those listed in the International Classification of Diseases published by the World Health Organization. ()

03. **Pediatric Patient.** A person seventeen (17) years of age or younger. ()

04. **Prescribing Psychologist.** A person who holds a license to practice psychology issued by the Board and who holds a Certification or Provisional Certification of Prescriptive Authority issued by the Board under Sections 54-2317, 54-2318, 54-2319, Idaho Code, and these rules. ()

004. -- 099. (RESERVED)

100. LICENSURE.

01. **Licensure by Examination.** ()

a. **Written Exam Required.** Applicants will pass the National Examination for Professional Practice in Psychology (EPPP). ()

02. **Temporary Permits.** Persons not licensed in this state who desire to practice psychology under the provisions of this chapter for a period not to exceed thirty (30) days within a calendar year may do so if they hold a license in another state or province have had no disciplinary action and pay the required fee. Persons authorized to practice under this section must hold a certification of prescriptive authority issued by the Idaho Board of Psychologist Examiners to issue a prescription. ()

03. **Examination for Provisional Certification of Prescriptive Authority.** The approved examination is the Psychopharmacology Examination for Psychologists. The passing score is determined by the Association of State and Provincial Psychology Boards. ()

04. **Provisional Certification of Prescriptive Authority.** ()

a. **Scope and Supervision Agreement.** The scope of practice of a psychologist with provisional certification of prescriptive authority includes only those duties and responsibilities identified in a written supervision agreement with a licensed physician. The agreement will contain the following elements: ()

i. The parties to the agreement and authorized scope of authority for each prescribing psychologist; ()

ii. The direct supervision methods, including supervision on a one-to-one basis for a minimum of four (4) hours each month and a minimum of a total of forty-eight (48) hours each year; ()

iii. A requirement that the prescribing psychologist must collaborate with, consult with, or refer to the supervising physician as indicated by the condition of the patient; the education, experience, and competence of the prescribing psychologist; and the community standard of care; and ()

iv. The procedures for an emergency consultation, and if necessary, any patient monitoring parameters. ()

b. Documentation. The licensed psychologist will maintain documentation of the supervision agreements for not less than three (3) years for each service extender and submit to the Board upon request. ()

c. One (1) of the two (2) years of supervised experience as required by Section 2307(2)(a), Idaho Code, for initial licensure may be pre-doctoral. The second year must be post-doctoral work under appropriate supervision and must be verified by the appropriate supervisor. ()

05. Provisional Licensure for Prescriptive Authority. Applicants for licensure or certification or provisional certification of prescriptive authority must submit a complete application, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. ()

06. Continuing Education. ()

a. Hours Required. A licensed psychologist must complete thirty (30) hours every two (2) calendar years of continuing education credits each year. Four (4) of those credits must be in Laws and Ethics. A prescribing psychologist must complete thirty (30) hours every two (2) calendar years of continuing education credits in psychopharmacotherapy. Continuing education credits for prescribing psychologists are in addition to the continuing education credits required to renew their psychologist license. ()

b. Professional Level of Continuing Education. This continuing education experience must be at an appropriate level for professional training in psychology. The licensees have responsibility for demonstrating the relevance and adequacy of the educational experience they select. The licensees are also responsible for keeping an accurate record of their own personal continuing education hours for a period of three (3) years. A random audit may be conducted to ensure compliance. ()

c. Continuing Education Credit. Licensees are responsible for choosing quality continuing education programs that focus on protecting the health and safety of the public and contribute to their germane profession. ()

d. Newly Licensed Individuals. Newly licensed individuals will be considered to have satisfied the continuing education requirements for the remainder of the year in which their license is granted. ()

101. -- 149. (RESERVED)

150. EDUCATIONAL AND CREDENTIALING REQUIREMENTS FOR LICENSURE.

Applicants who receive a doctoral degree from a program accredited by the American Psychological Association are considered to have met all criteria outlined. ()

01. Training in Professional Psychology. Training in professional psychology is doctoral training offered in an institution of higher education accredited by the US Department of Education or a regionally accredited institution of higher education. The program must stand as a recognizable and coherent program in the institution. ()

02. Training Program. The curriculum must encompass a minimum of three (3) academic years of full-time graduate study, one (1) of which is in physical residence at the degree-granting institution. The program must include a supervised practicum and pre-doctoral internship. Pre-doctoral internships must be completed at a member site of the Association of Psychology Postdoctoral and Internship Centers, or sites demonstrating an equivalent program. ()

03. Content of Program. The program must be an integrated, organized sequence of study, with a recognized sequence of study. It must have an identifiable psychology faculty and body of students who are matriculated in that program for the purposes of receiving a degree. Minimal competence is demonstrated by passing a three (3) credit semester graduate course (or a five (5) credit quarter graduate course) in each of the substantive

areas listed below: ()

- a. Biological Bases of Behavior: Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology. ()
- b. Cognitive-Affective Bases of Behavior: Learning, cognition, motivation, emotion. ()
- c. Social Bases of Behavior: Social psychology, group processes, organizational and systems theory. ()
- d. Individual Differences: Personality theory, human development, abnormal psychology. ()
- e. Scientific and Professional Standards and Ethics. ()
- f. Research Design and Methodology. ()
- g. Techniques of Data Analysis: statistics, multivariate statistics, factor analysis, multiple regression, non-parametric statistics. ()
- h. Psychological Measurement: psychometric principles, test theory, personality assessment, cognitive assessment. ()
- i. History and Systems of Psychology. ()
- j. Multiculturalism and Individual Diversity. ()

151. -- 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Requirements for Supervised Practice. ()

- a. Duration and Setting of Supervised Practice. A year of supervised experience is defined as a minimum of one thousand (1000) hours of supervised service provision acquired during not less than twelve (12) months and no more than a thirty-six (36) calendar month period. The first year of supervised experience must be accredited only after acquiring the equivalent of one (1) year of full-time graduate study. A second year must be obtained post-doctorally. ()
- b. Qualifications of Supervisors. Supervising psychologists must be licensed and in good standing. ()
- c. Amount of Supervisory Contact. One (1) hour per week of face-to-face individual contact per forty (40) hours of applicable experience is a minimum. ()
- d. Evaluation and Accreditation of Supervised Practice. At the conclusion of the supervisory period, the supervisor will submit a written evaluation on a Board approved form. ()

02. Supervision of Provisional Certification Holder. Prior to application for a certification of prescriptive authority, a provisional certification holder must complete two (2) years, including a minimum of two thousand (2,000) hours of satisfactory prescribing under a supervision agreement with a licensed physician. ()

- a. Number of Patients. A minimum of fifty (50) separate patients who are seen for the purpose of evaluation and treatment with those medications that are within the formulary established in these rules. ()
- b. Supervision for Pediatric or Geriatric Patients. Prior to application for certification of prescriptive authority for pediatric patients or geriatric patients, a provisional certification holder must complete one (1) year, including a minimum of one thousand (1,000) hours of satisfactory prescribing under a supervision agreement with a

licensed physician. The one (1) year of satisfactory prescribing for a pediatric or geriatric population may be counted as one (1) year of the two (2) years of satisfactory prescribing required to qualify for certification of prescriptive authority. ()

c. Credit Toward Certification. The one (1) year of satisfactory prescribing for a pediatric or geriatric population may be counted as one (1) year of the two (2) years of satisfactory prescribing required to qualify for certification of prescriptive authority. ()

d. Number of Patients. One (1) year of satisfactory prescribing includes a minimum of twenty-five (25) separate patients in the population for which the prescribing psychologist seeks to prescribe and who are seen for the purpose of evaluation and treatment with those medications that are within the formulary established in Section 200 of these rules. For a prescribing psychologist who seeks to prescribe for pediatric patients, a minimum of ten (10) separate patients must be twelve (12) years of age or younger and a minimum of ten (10) separate patients must be between thirteen (13) years of age and seventeen (17) years of age. ()

03. Standards of Practice for Prescriptive Authority. A prescribing psychologist who issues a prescription for medication to a patient must collaborate with the patient's licensed medical provider if the patient has one and follow community standard of care. ()

a. Licensed Medical Provider. The prescribing psychologist must document that the psychologist has made every reasonable effort to encourage the patient to maintain or establish a relationship with a licensed medical provider. ()

b. Education. Only prescribe formulary drugs or devices for conditions for which the prescribing psychologist is educationally prepared and for which competence has been achieved and maintained. ()

c. Patient-Prescriber Relationship. Only issue a prescription for a legitimate medical purpose arising from a patient-prescriber relationship as defined in Section 54-1733, Idaho Code. ()

d. Patient Assessment. Obtain adequate information about the patient's health status to make appropriate decisions based on the applicable standard of care and the best available evidence. ()

e. Collaboration with Other Health Care Professionals. Recognize the limits of the prescribing psychologist's own knowledge and experience and consult with and refer to other licensed medical providers as appropriate. ()

f. Documentation. Maintain documentation adequate to justify the care provided including, but not limited to, the information collected as part of the patient assessment, the prescription record, provider notification, and the follow-up care plan. ()

g. Emergencies. If a prescribing psychologist determines that an emergency exists that may jeopardize the health or wellbeing of the patient, the prescribing psychologist may, without prior consultation with the patient's licensed medical provider, prescribe psychotropic medications or modify an existing prescription for psychotropic medication previously written for that patient by that prescribing psychologist. The prescribing psychologist must consult with the licensed medical provider as soon as possible. The prescribing psychologist must document in the patient's psychological evaluation/treatment records the nature and extent of the emergency and the attempt(s) made to contact the licensed medical provider prior to prescribing or other reason why contact could not be made. ()

h. Disaster Areas. If a prescribing psychologist is working in a declared emergency/disaster area, the on-site medical staff can serve as the evaluating licensed medical provider. ()

04. Formulary. A prescribing psychologist may not prescribe any opioid-controlled substance medication, unless pursuant to 21 U.S.C 823(g). A prescribing psychologist may not prescribe medication to treat a primary endocrine, cardiovascular, orthopedic, neurologic, gynecologic, obstetric, metabolic, hematologic, respiratory, renal, gastrointestinal, hepatic, dermatologic, oncologic, infectious, ophthalmologic, or rheumatologic illness or disorder. ()

05. Use of Service Extenders. To evaluate whether a specific act is within the scope of psychology practice in or into Idaho, or whether an act can be delegated to other individuals under their supervision, a licensee of the Board must independently determine whether: ()

a. Express Prohibition. The act is expressly prohibited by the Idaho Psychologist Act, Title 54, Chapter 23, Idaho Code; rules of the Idaho Board of Psychologist Examiners; or any other applicable state or federal laws or regulations. ()

b. Education, Training, and Experience. The act is consistent with the licensee or service extender’s education, training, and experience. ()

c. Standard of Care. Performance of the act is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent licensee or service extender with similar education, training, and experience. ()

d. Scope of Service Extenders. The scope of practice of service extenders includes only those duties and responsibilities identified in a written supervision agreement. ()

e. Supervised Practice. A signed supervision agreement between a licensed psychologist(s) and service extender(s) must include: ()

i. The parties to the agreement and authorized scope of practice for each service extender; ()

ii. The direct supervision methods including regular supervisory sessions and chart review; and ()

iii. The procedures for emergency consultation, and if necessary, any patient monitoring parameters. ()

iv. Documentation. The licensed psychologist will maintain documentation of the supervision agreements for not less than three (3) years for each service extender and submit to the Board upon request. ()

201. -- 399. (RESERVED)

400. FEES.

All fees are non-refundable. The examination or reexamination fee are in addition to the application fee and must accompany the application.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application for Licensure by Exam	\$150	
Inactive License Renewal	\$125	
Endorsement Application	\$250	
Senior Psychologist	\$250	
Annual Licensure Renewal		\$250
Prescribing Psychologist	\$250	\$250
Service Extender	\$100	\$100
Reinstatement Penalty-Current Year	\$35	
Administrative Fee	\$25	

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Duplicate License Fee	\$10	
Certification Fee	\$10	
PSYPACT Participation Fee		\$10

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401. -- 999. (RESERVED)

24.13.01 – RULES GOVERNING THE PHYSICAL THERAPY LICENSURE BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-2206, Idaho Code. ()

001. SCOPE.

These rules govern the practice of physical therapy in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Supportive Personnel. An individual, or individuals, who are neither a physical therapist or a physical therapist assistant, but who are employed by and/or trained under the direction of a licensed physical therapist to perform designated non-treatment patient related tasks and routine physical therapy tasks. ()

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

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

04. Testing. ()

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

i. Electrodiagnostic and electrophysiological measurements; ()

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

iii. Reflexes; ()

iv. Automatic reactions; ()

v. Posture and body mechanics; ()

vi. Movement skill and accuracy; ()

vii. Joint range of motion and stability; ()

viii. Sensation; ()

ix. Perception; ()

x. Peripheral nerve function integrity; ()

xi. Locomotor skills; ()

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

xiii. Limb volume, symmetry, length and circumference; ()

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

- xv. Vital signs such as pulse, respiratory rate, and blood pressure; ()
 - xvi. Activities of daily living; and the physical environment of the home and work place; and ()
 - xvii. Pain patterns, localization and modifying factors; and ()
 - xviii. Photosensitivity. ()
- b.** Specifically excluded are the ordering of electromyographic study, electrocardiography, thermography, invasive vascular study, selective injection tests, or complex cardiac or respiratory function studies without consultation and direction of a physician. ()
- 05. Functional Mobility Training.** Includes gait training, locomotion training, and posture training. ()
- 06. Manual Therapy.** Skilled hand movements to mobilize or manipulate soft tissues and joints for the purpose of: ()
- a.** Modulating pain, increasing range of motion, reducing or eliminating soft tissue swelling, inflammation or restriction; ()
 - b.** Inducing relaxation; ()
 - c.** Improving contractile and non-contractile tissue extensibility; and ()
 - d.** Improving pulmonary function. ()
- 07. Physical Agents or Modalities.** Thermal, acoustic, radiant, mechanical, or electrical energy used to produce physiologic changes in tissues. ()
- 08. General Supervision.** A physical therapist's availability at least by means of telecommunications, which does not require a physical therapist to be on the premises where physical therapy is being provided, for the direction of a physical therapist assistant. ()
- 09. Direct Supervision.** A physical therapist's or physical therapist assistant's physical presence and availability to render direction in person and on the premises where physical therapy is being provided. ()
- 10. Direct Personal Supervision.** A physical therapist's or physical therapist assistant's direct and continuous physical presence and availability to render direction, in person and on the premises where physical therapy is being provided. The physical therapist or physical therapist assistant must have direct contact with the patient during each session and assess patient response to delegated treatment. ()
- 11. Supervising Physical Therapist.** A licensed physical therapist who developed and recorded the initial plan of care and/or who has maintained regular treatment sessions with a patient. Such physical therapist's designation of another licensed physical therapist if the physical therapist who developed and recorded the initial plan of care or maintained regular treatment sessions is not available to provide direction at least by means of telecommunications. ()
- 12. Nationally Accredited School.** A school or course of physical therapy or physical therapist assistant with a curriculum approved by the Commission on Accreditation in Physical Therapy Education (CAPTE) or an accrediting agency recognized by the U.S. Department of Education, the Council on Postsecondary Accreditation, or a successor entity, or both. ()
- 13. Examination.** The examination is the National Physical Therapy Examination (NPTE) administered by Federation of State Boards of Physical Therapy. The examination may also include a jurisprudence examination adopted by the Board. ()

011. -- 015. (RESERVED)

016. SUPERVISION.

A physical therapist shall supervise and be responsible for patient care given by physical therapist assistants, supportive personnel, physical therapy students, and physical therapist assistant students. ()

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

a. Interpretation of a referral for physical therapy if a referral has been received. ()

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

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

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

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

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

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

h. Performance of dry needling. ()

02. Supervision of Physical Therapist Assistants. A physical therapist assistant must be supervised by a physical therapist by no less standard than general supervision. ()

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

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

c. The supervising physical therapist must provide direct personal contact with the patient and assess the plan of care on or before every ten (10) visits or once a week if treatment is performed more than once per day but no less often than once every sixty (60) days. The supervising therapist's assessment must be documented in the patient record. ()

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

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

03. Supervision of Supportive Personnel. Any routine physical therapy tasks performed by supportive personnel requires direct personal supervision. ()

04. Supervision of Physical Therapy and Physical Therapist Assistant Students. Supervision of physical therapy students and physical therapist assistant students requires direct supervision. ()

a. A physical therapy student is only supervised by the direct supervision of a physical therapist. ()

b. A physical therapy student is required to sign all treatment notes with the designation “SPT” after their name, and all such signatures require the co-signature of the supervising physical therapist. ()

c. A physical therapist assistant student is required to sign all treatment notes with the designation “SPTA” after their name, and all such signatures require the co-signature of the supervising physical therapist or supervising physical therapist assistant. ()

05. Supervision Ratios. ()

a. At any one time, the physical therapist may supervise up to a total of three supervised personnel, who are physical therapist assistants or supportive personnel. If the physical therapist is supervising the maximum of three supervised personnel at any one time, no more than two of the supervised personnel may be supportive personnel or physical therapist assistants. ()

b. In addition to the supervised personnel authorized in a. of this subsection, the physical therapist may supervise two persons engaging in direct patient care who are pursuing a course of study leading to a degree as a physical therapist or a physical therapist assistant. ()

017. -- 174. (RESERVED)

175. REQUIREMENTS FOR LICENSURE.

An individual shall be entitled to a license upon the submission of proof and approval that the individual has successfully passed the NPTE with a scaled score of at least six hundred (600) and the jurisprudence examination with a score of at least seventy-five percent (75%). Foreign educated individuals whose native language is not English must submit proof of successfully passing one (1) of the following English proficiency exams: ()

01. Test of English as a Foreign Language (TOEFL). Minimum passing scores of two hundred twenty (220) for computer test and five hundred sixty (560) for paper test; ()

02. Test of English as a Foreign Language – Internet-Based Test (TOEFL IBT). Minimum passing scores of twenty-four (24) in writing; twenty-six (26) in speaking, twenty-one (21) in reading, and eighteen (18) in listening; or ()

03. Alternative Exams. as otherwise approved by the Board. ()

176. INACTIVE STATUS.

01. Request for Inactive Status. Licensees requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. ()

02. Continuing Education. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. ()

03. Reinstatement to Full Licensure from Inactive Status.

a. Return to Active Status of License - Inactive for Five (5) or Fewer Years. An inactive license holder whose license has been inactive for five (5) or fewer years may convert from inactive to active license status by: ()

i. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the following continuing education requirements: ()

(1). Licenses inactive for three (3) years or less, one (1) year of continuing education; or ()

(2). Licenses inactive for more than three (3) years, two (2) years of continuing education; and ()

ii. Paying the appropriate fee. ()

b. Return to Active Status of License - Inactive for Greater than Five (5) Years. An inactive license holder whose license has been inactive for greater than five (5) years may convert from inactive to active license status by: ()

i. Providing documentation to the Board showing successful completion within the previous twelve (12) months of two (2) years of continuing education requirements; and ()

ii. Providing proof that the licensee has actively engaged in the practice of physical therapy in another state or territory of the United States for at least three (3) of the immediately preceding five (5) years, or provide proof that the licensee is competent to practice in Idaho. ()

iii. The Board may consider the following factors when determining proof of competency: ()

(1). Number of years of practice prior to transfer from active status; ()

(2). Employment in a field similar to physical therapy; and ()

(3). Any other factors the Board deems appropriate. ()

177. -- 179. (RESERVED)

180. DRY NEEDLING CERTIFICATION.

The Board may grant certification for dry needling to a physical therapist who completes an application, pays the applicable fees, and meets the following requirements: ()

01. Training and Education. At least one (1) year of practice as a licensed physical therapist and successful completion of a Board approved course that is a minimum of twenty-seven (27) hours of in-person instruction of which no less than sixteen (16) hours must be hands-on application of dry needling techniques by the physical therapist. ()

02. Course Approval. The Board will review course curriculum, including a course syllabus, prior to approval. The course must: ()

a. Be taught by a qualified instructor as shown by education and experience; ()

b. Include instruction and training on indications/contraindications for dry needling, safe needling technique, and blood borne pathogens; ()

c. Require successful completion of an assessment of proficiency in dry needling, which includes a practical demonstration of the physical therapist's dry needling skills. ()

03. Course Completion. Completion of this education and training may have occurred prior to the effective date of these rules. ()

181. DRY NEEDLING RECERTIFICATION.

01. Issuance. Dry needling certification shall be issued every three (3) years by timely submission of a physical therapy license renewal application, payment of the physical therapy license renewal fee, the dry needling certification fee, and payment of fines, costs, fees or other amounts that are due and owing to the Board or in compliance with a payment arrangement with the Board, and verifying to the Board that the licensee is in compliance with the requirements for dry needling certification as provided in the Board’s laws and rules. ()

02. Expiration Date. Physical Therapists dry needling certification expires on the expiration date of their physical therapy license and must be issued every three (3) years. Proof of completion of a minimum of twenty-seven (27) hours of in-person instruction of which no less than sixteen (16) hours must be hands-on application of dry needling techniques by the physical therapist, must be provided for renewal of their license. The Board must waive the dry needling certification fee in conjunction with the first timely renewal of the physical therapy license after initial dry needling certification. ()

03. Failure to Comply with Issuance Requirements.

a. If a licensee with dry needling certification fails to verify meeting dry needling issuance requirements when renewing their physical therapy license, the dry needling certification is canceled and the physical therapy license will be renewed without dry needling certification. ()

b. If a licensee with dry needling certification fails to timely renew their physical therapy license, their dry needling certification is canceled. ()

182. -- 199. (RESERVED)

200. FEES.

All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Physical Therapist License	\$25	\$25
Physical Therapist Assistant License	\$20	\$20
Examination	Established by examination entity plus an administrative fee not to exceed \$20	
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application	\$25	
Dry Needling Certification	\$25	\$25
Physical Therapist Inactive	\$15	\$15
Physical Therapist Assistant Inactive	\$10	\$10
Inactive to Active License	The difference between the inactive fee and active license renewal fee	

()

201. -- 249. (RESERVED)

250. CONTINUING EDUCATION REQUIREMENT.

01. Renewal of License. Every person holding a license issued by the Board must annually complete

sixteen (16) contact hours of continuing education prior to license renewal. ()

02. Reinstatement of License. Any license canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant must submit proof of having met the following continuing education requirements: ()

a. For licenses expired for three (3) years or less, one (1) year of continuing education; or ()

b. For licenses expired for more than three (3) years, two (2) years of continuing education; ()

03. Contact Hours. The contact hours of continuing education must be obtained in areas of study germane to the practice for which the license is issued as approved by the board. ()

04. Documentation of Attendance. The applicant must provide documentation verifying attendance 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 to the board upon request by the board or its agent. ()

05. Excess Hours. Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date may be applied toward meeting the continuing education requirement for the next license renewal. Hours in excess of the required hours may be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. ()

06. Compliance Audit. The board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the board of meeting the continuing education requirement be submitted to the Division. Failure to provide proof of meeting the continuing education upon request of the board are grounds for disciplinary action. ()

07. Special Exemption. The board has authority to make exceptions for reasons of individual hardship, including health or other good cause. The licensee must provide any information requested by the board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the board. ()

08. Continuing Education Credit Hours. Hours of continuing education credit may be obtained by attending and participating in a continuing education activity approved by the Board. ()

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

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

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

iii. Conducted by individuals who have specialized education, training and experience to be considered qualified to present the subject matter of the program. The Board may request documentation of the qualifications of presenters; ()

iv. Application for Board approval is accompanied by a paper, manual or outline which describes the specific offering and includes the program schedule, goals and objectives; and ()

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

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

i. Presenting professional programs which meet the criteria listed in these rules. Two (2) hours of

credit will be awarded for each hour of presentation by the licensee. A course schedule or brochure must be maintained for audit; ()

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

x. Supervision of a physical therapist student or physical therapist assistant student in an accredited college program. The licensee will receive four (4) hours of credit per year; and ()

xi. Completion and awarding of Board Certification or recertification by American Board of Physical Therapy Specialists (ABPTS). The licensee will receive sixteen (16) hours for the year the certification or recertification was received. ()

09. Course Approval. Courses of study relevant to physical therapy and sponsored or provided by the American Physical Therapy Association (APTA) or any of its sections or local chapters; CAPTE; the National Athletic Trainers Association; an accredited, or candidate for accreditation, college or university; or otherwise approved by the Board. ()

10. Submitting False Reports or Failure to Comply. The Board may condition, limit, suspend, or refuse to renew the license of any individual whom the Board determines submitted a false report of continuing education or failed to comply with the continuing education requirements. ()

251. -- 274. (RESERVED)

275. DISCIPLINARY PENALTY.

01. Disciplinary Procedures. The disciplinary procedures of the Division are the disciplinary procedures of the Board. ()

02. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) for each violation upon anyone licensed under Title 54, Chapter 22, Idaho Code who is found by the Board to be in violation of Section 54-2219, Idaho Code. ()

276. -- 299. (RESERVED)

300. CODE OF ETHICS.

Physical therapists and physical therapist assistants are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A and Appendix B to these rules. ()

301. -- 999. (RESERVED)

Appendix A - Physical Therapist Code Of Ethics

Preamble

This Code of Ethics of the American Physical Therapy Association sets forth principles for the ethical practice of physical therapy. All physical therapists are responsible for maintaining and promoting ethical practice. To this end, the physical therapist shall act in the best interest of the patient/client. This Code of Ethics shall be binding on all physical therapists.

Principle 1

A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.

Principle 2

A physical therapist shall act in a trustworthy manner toward patients/clients and in all other aspects of physical therapy practice.

Principle 3

A physical therapist shall comply with laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.

Principle 4

A physical therapist shall exercise sound professional judgment.

Principle 5

A physical therapist shall achieve and maintain professional competence.

Principle 6

A physical therapist shall maintain and promote high standards for physical therapy practice, education, and research.

Principle 7

A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.

Principle 8

A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.

Principle 9

A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.

Principle 10

A physical therapist shall endeavor to address the health needs of society.

Principle 11

A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

APPENDIX B - PHYSICAL THERAPIST ASSISTANT CODE OF ETHICS

Preamble

This document of the American Physical Therapy Association sets forth standards for the ethical conduct of the physical therapist assistant. All physical therapist assistants are responsible for maintaining high standards of conduct while assisting physical therapists. The physical therapist assistant shall act in the best interest of the patient/client. These standards of conduct shall be binding on all physical therapist assistants.

Standard 1

A physical therapist assistant shall respect the rights and dignity of all individuals and shall provide compassionate care.

Standard 2

A physical therapist assistant shall act in a trustworthy manner toward patients/clients.

Standard 3

A physical therapist assistant shall provide selected physical therapy interventions only under the supervision and direction of a physical therapist.

Standard 4

A physical therapy assistant shall comply with laws and regulations governing physical therapy.

Standard 5

A physical therapist assistant shall achieve and maintain competence in the provision of selected physical therapy interventions.

Standard 6

A physical therapist assistant shall make judgments that are commensurate with his or her educational and legal qualifications as a physical therapist assistant.

Standard 7

A physical therapist assistant shall protect the public and the profession from unethical, incompetent, and illegal acts.

24.14.01 – RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-3204, Idaho Code. ()

001. SCOPE.

These rules govern the practice of social work in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Professionalism. Behavior exhibited on the part of an applicant which is in conformity with the Social Work Code of Professional Conduct as defined in Section 450 of these rules and within the limits of state law. ()

02. Psychotherapy. Treatment methods using a specialized, formal interaction between a Clinical Social Worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, intrapersonal, interpersonal, and psychosocial dynamics, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. ()

03. Relative. For the purposes of these rules, a relative is a person's spouse, parent, child, or sibling, regardless of whether the relation is by blood, through marriage, or by law. ()

04. Supportive Counseling. Supportive counseling by a social worker means a method used by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns. This help in the maintenance of adaptive patterns is done in the interview through reassurance, advice giving, information providing, and pointing out client strengths and resources. Supportive counseling does not seek to reach unconscious material. ()

011. -- 099. (RESERVED)

100. APPROVED COLLEGES AND UNIVERSITIES.

Any college, university, or school of social work that is accredited or is a candidate for accreditation by the Northwest Commission on Colleges and Universities or any similar accrediting body, and that offers a social work program that is accredited by the Council on Social Work Education (CSWE) or that is otherwise approved by the Board. The social work program must be a recognizable, coherent organizational entity within the institution. ()

101. -- 199. (RESERVED)

200. LICENSING QUALIFICATIONS AND DEFINITION OF TERMS.

All applicants for licensing under the Social Work Licensing Act must meet the minimum qualifications as set forth by this act. ()

01. Educational Requirements. Educational requirements must be verified by submission of official transcripts sent directly to the Board from the educational institution or from the repository of primary source credentialing information administered by the Association of Social Work Boards (ASWB). Applicants are responsible for arranging transmission of this information. ()

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. Baccalaureate social work can include independent practice, but not private practice. ()

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. Master's social work can include independent practice, but not private practice. ()

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. ()

04. 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. ()

202. -- 209. (RESERVED)

210. SUPERVISION.

01. Generally Applicable Supervision Requirements. All supervised experience, as set forth in this section, must meet the following requirements: ()

a. Supervision must be consultative-teaching supervision which is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. ()

b. A minimum of one hundred (100) hours of the required supervision must be face-to-face contact with the supervisor and must occur on a regular and on-going basis. Supervision may include a face-to-face setting provided by a secure live electronic connection. The secure live electronic connection must comply with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA). ()

i. A supervisee may count in full all time in a supervisory session where the ratio of supervisor to supervisees does not exceed one (1) supervisor to two (2) social workers. All one hundred (100) hours may be earned in such a one (1) to two (2) setting. ()

ii. Group supervision may count for no more than fifty (50) hours of face-to-face contact. Group supervision may count only where the ratio of supervisor to supervisees does not exceed one (1) supervisor to six (6) supervisees, and the allowable countable time must be prorated by the following formula: total session minutes divided by total supervisees, multiplied by two (2) equals the maximum allowable countable time per supervisee for the session. i.e. a supervisee attending a one (1) hour group supervisory session consisting of six (6) supervisees must be allowed twenty (20) minutes of group supervision credit (60 minutes/6 supervisees x 2 = 20 minutes). ()

02. Pursuing Licensure As Independent Practitioners. Requirements for supervision of baccalaureate or master's social workers pursuing licensure as independent practitioners. ()

a. Develop a plan for supervision that must be reviewed and approved by a designated Board member

prior to commencement of supervision. ()

b. Complete a minimum of three thousand (3,000) hours of supervised social work experience. The hours must be accumulated in not less than two (2) years but in not more than five (5) years unless an extension is approved by the Board for good cause shown. ()

c. Supervision must be provided by a qualified and experienced licensed social worker with a current license in good standing and approved to pursue independent practice. ()

i. For a baccalaureate social worker the supervisor must hold a license at the baccalaureate, masters, or clinical level. ()

ii. For a masters social worker the supervisor must hold a license at the masters, or clinical level. ()

iii. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. ()

iv. The supervisee may not have more than two (2) supervisors at any given time. ()

03. Pursuing Licensure As Clinical Social Worker. Requirements for supervision of master’s social workers pursuing licensure as clinical social worker. ()

a. Develop a plan for supervision that must be reviewed and approved by a designated Board member prior to commencement of supervision. ()

b. Complete a minimum of three thousand (3,000) hours of supervised social work experience focused on clinical social work. The hours must be accumulated in not less than two (2) years but in not more than five (5) years unless an extension is approved by the Board for good cause shown. The hours must also meet the following: ()

i. One thousand seven hundred fifty (1,750) hours of direct client contact involving treatment in clinical social work as defined; and ()

ii. One thousand two hundred fifty (1,250) hours involving assessment, diagnosis, and other clinical social work as defined. ()

c. Fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker registered as a supervisor pursuant to Section 211 of these rules. The remaining fifty percent (50%) of supervision may be provided by one or more of the following: ()

i. A licensed clinical social worker who is registered as a supervisor pursuant to Section 211; ()

ii. A licensed clinical psychologist; ()

iii. A person licensed to practice medicine and surgery who practices in the area of psychiatry; ()

iv. A licensed clinical professional counselor registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists; or ()

v. A licensed marriage and family therapist registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. ()

d. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. ()

- e. The supervisee may not have more than two (2) supervisors at any given time. ()

04. Out-of-State Supervised Experience. The Board may consider supervised experience obtained outside the state of Idaho submitted for Idaho licensure purposes as proscribed under Section 210.03 and consistent with that jurisdictions laws. Such experience, whether already obtained or planned to be obtained, must be included in the plan for supervision and reviewed and approved by a designated Board member. ()

a. Previous supervised experience must have been obtained within the five (5) year period preceding the submission of the plan for supervision and must have been obtained in compliance with the law and rules of the state in which the experience was obtained. ()

211. SOCIAL WORK SUPERVISOR REGISTRATION.

Idaho licensed social workers must be registered with the Board in order to provide postgraduate supervision for those individuals in Idaho pursuing licensure as a clinical social worker. ()

01. Requirements for Registration. ()

a. Document at least two-years' experience as a licensed clinical social worker. ()

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

c. Document fifteen (15) contact hours of education in clinical supervisor training within the past five (5) years, as approved by the Board, or if previously registered as a supervisor with the Board, document six (6) hours of education in advanced supervisor training as approved by the Board. ()

02. Registration. ()

a. Upon receipt of a completed application verifying compliance with the requirements for registration as a supervisor, the applicant must be registered as a supervisor. ()

b. A supervisor's registration must remain valid only so long as the individual's clinical social worker license remains current and in good standing. ()

03. Renewal. A supervisor's registration is valid for a term of five (5) years. To renew a supervisor registration, the registered supervisor must submit a renewal application and: ()

a. Hold an active Idaho clinical social worker license which has not been subject to discipline, the Board may, in its discretion, approve a supervisor who has been previously disciplined based on the nature of the discipline and the time elapsed; and ()

b. Document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous five (5) years. ()

212. -- 224. (RESERVED)

225. INACTIVE STATUS.

01. Request for Inactive Status. Each person requesting an inactive status must submit the required form and pay the inactive license fee. ()

02. Inactive License Status. ()

a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho ()

b. To return to active status, a licensee must complete one (1) year of continuing education requirements and submit a fee equivalent to the difference between the inactive and active renewal fee. ()

03. Return to Active Status After Five (5) Years or More of Inactive Status. Licensee must provide an account to the Board for that period of time during which the license was inactive and fulfilling requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency. ()

226. -- 299. (RESERVED)

300. FEES.
All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)	INACTIVE (Not to Exceed)
Application	\$70		
Examination	Set by testing service		
Endorsement and license	\$90		
Licensed Clinical Social Worker	\$70	\$90	\$45
Licensed Masters Social Worker	\$70	\$80	\$40
Licensed Social Worker	\$70	\$80	\$40
Reinstatement	In accordance with Section 67-2614, Idaho Code		

()

301. -- 349. (RESERVED)

350. EXAMINATIONS AND ENDORSEMENT.
Applications for examination and endorsement may be reviewed and approved by a designated Board member upon determination that the applicant meets the qualifications. Approval to sit for examination does not obligate the Board to issue a license if it is later determined that the applicant does not meet the requirements for licensure. ()

01. Exam. The Board approves the uniform, nationally standardized examination of the Association of Social Work Boards (ASWB) as the Idaho licensure examination. ()

a. Bachelor level candidates are required to successfully pass the bachelor’s examination. ()

b. Masters level candidates are required to successfully pass the master’s examination. ()

c. Clinical level candidates are required to successfully pass the clinical examination. ()

02. Graduation Date to Qualify for Exam. Candidates for examination who can satisfy the Board that they will be graduating at the end of the spring, summer, or fall terms of any given year may qualify for examination immediately preceding the date of graduation. ()

03. Endorsement. The Board may grant a license to any person who submits an application and who: ()

- a. Holds a current, active social work license, at the level 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 ()
- b. Has 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 ()
- c. Has not been convicted, found guilty, or received a withheld judgment or suspended sentence for any crime that is inconsistent with the profession of social work. ()
- d. Has successfully passed an examination, as referenced in Subsection 350.02, or an examination provided by the Professional Examination Service (PES) at the clinical social worker and social worker level or the Education Testing Service (ETS) examination; and ()
- e. Has certified under oath to abide by the laws and rules governing the practice of social work in Idaho and the code of professional conduct. ()
- f. The Board may waive the examination requirement in Subsection 350.05.d. for an applicant who was not required to pass such an examination at the time the applicant initially obtained a social work license, provided that the applicant meets all other requirements in this subsection and has actively practiced social work for five (5) of the last seven (7) years preceding application. ()

351. CONTINUING EDUCATION.

01. Continuing Education Requirements. ()

- a. Continuing education is required for renewal at all levels of social work licensure in Idaho. The Board may waive this requirement upon a showing of good cause. ()
- b. Each licensee must complete a minimum of twenty (20) continuing education (CE) hours, including at least one (1) hour in professional ethics. ()
- c. Compliance with the continuing education (CE) requirements for licensees must be reported annually. A continuing education course taken in any renewal year, but not claimed for CE credit in that year, may be utilized for credit in the following renewal year. ()
- d. Licensees will maintain documentation verifying CE attendance and curriculum for a period of four (4) years. This documentation will be subject to audit by the board. ()
- e. Licensees are not required to comply with this requirement during the first year in which they become licensed under the social work act. ()
- f. One (1) continuing education hour equals one (1) clock hour. ()
- g. Courses that are part of the curriculum of a university, college or other educational institution are allotted CE credit at the rate of fifteen (15) CE hours for each semester hour or ten (10) CE hours for each quarter hour of school credit awarded. ()
- h. Applications for reinstatement of a canceled license must include documented proof of meeting the continuing education requirements for the previous twelve (12) months. The requirement for professional ethics training continues during any period of cancellation. ()

02. Categories of Continuing Education. ()

- a. Category I. Category I includes formally organized learning events, ideally involving face-to-face interaction with a teacher for the purpose of accomplishing specific learning objectives. Courses, workshops, conferences, practice oriented seminars, staff development and training activities coordinated and/or taught by

approved and recognized educators also are included in this category. Because of our geographic location and sparse population, closed circuit T.V., video and audio tapes, internet based courses, and correspondence courses may be substituted for face-to-face contact if the course is interactive or requires an examination. ()

b. Category II. No more than ten (10) CE hours may be obtained from this category. Category II consists of a variety of self-directed professional study activities and growth experiences. Examples include making an initial presentation on professional issues or programs, teaching a course for the first time, presenting a lecture or conducting a workshop for the first time, editing or writing professional books or articles, and conducting professional research. ()

c. The subject matter of all approved continuing education must be germane to the practice of social work as defined in Section 54-3202, Idaho Code, and may include the specialties of Marriage and Family Therapy, Psychiatry, Psychiatric Nursing, or Psychology. ()

03. Continuing Education Sources. ()

a. Continuing education course providers must include: ()

i. Professional Associations. Continuing education hours may be obtained by participating in activities sponsored by or approved by professional associations including but not limited to the Idaho Chapter of the National Association of Social Workers, Idaho Society for Clinical Social Workers. The professional association must certify the number of clock hours of educational content in each sponsored or approved activity. ()

ii. Educational Institutions. Continuing education hours may be obtained by completing coursework not below your level of licensing or by participating in continuing education programs sponsored by or approved by educational institutions accredited by a regional body recognized by the Council on Post Secondary Accreditation. The educational institution must certify the number of clock hours of educational content in each sponsored or approved program. ()

iii. Government Agencies, Schools and Hospitals. Continuing education hours may be obtained by participating in in-service training, courses or workshops sponsored by federal, state, or local government agencies, public school systems and licensed hospitals. The provider must certify the number of clock hours of educational content in each approved activity. ()

iv. Private social service agencies and other entities. Continuing education hours may be obtained by participating in continuing education programs sponsored by agencies or entities who regularly provide social work services. The provider must certify the number of clock hours of educational content in each approved activity. ()

b. All continuing education hours must be relevant to the profession of social work at the individual's particular level of social work licensure. The presenter's level of education must be at the licensee's level or above. Continuing education for clinical licensees must be clinical in nature except that five (5) hours each year may be non-clinical but must be germane to the practice of social work. Final approval of acceptable programs rests with the Board. ()

04. Documentation. ()

a. Each licensee must maintain documentation verifying CE attendance and curriculum for a period of four (4) years from the date of completion. This documentation will be subject to audit by the Board. ()

b. Licensees must 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 will subject the licensee to disciplinary action, including revocation. ()

c. Continuing education documents must be in the form of a certificate of attendance, a statement signed by the provider verifying participation in the activity, an official transcript, or other documentation such as a certificate or letter from the sponsoring entity that includes the title of the activity, the subject material covered, the

dates and number of hours credited, and the presenter’s full name and professional credentials, or other documentation as the Board may require. ()

352. -- 399. (RESERVED)

400. UNPROFESSIONAL CONDUCT.

“Unprofessional conduct” is further defined as any violation of the Social Work Code of Professional Conduct. ()

401. -- 449. (RESERVED)

450. STATEMENT OF PUBLIC POLICY AND CODE OF PROFESSIONAL CONDUCT.

The profession of social work is dedicated to serving people; the professional relationship between social workers and clients thus is governed by the highest moral and ethical values. The client is in a vulnerable role that extends beyond the time frame of actual services. In both social and professional interactions, this vulnerability is taken into consideration whether the person is currently or has been a client. Following is the Code of Professional Conduct: ()

01. The Social Worker's Ethical Responsibility to Clients. ()

a. For the purpose of this Code of Professional Conduct, a client is anyone for whom the social worker provides social work services directly or indirectly through consultations, staffings, or supervision with other professionals. ()

b. The social worker will not commit fraud nor misrepresent services performed. ()

c. The social worker will not solicit the clients of an agency for which they provide services for his private practice. ()

d. The social worker will not divide a fee or accept or give anything of value for receiving or making a referral. ()

e. The social worker will provide clients with accurate and complete information regarding the extent and nature of the services available to them. ()

f. The social worker will terminate service to clients, and professional relationships with them, when such service and relationships are no longer required or in which a conflict of interest arises. ()

g. A social worker may not violate a position of trust by knowingly committing any act detrimental to a client. ()

h. A social worker may not exploit their professional relationships with clients (or former clients), supervisees, supervisors, students, employees, or research participants, sexually or otherwise. Social workers will not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwelcomed by the recipient. ()

i. A social worker may not engage in romantic or sexual acts with a client or with a person who has been a client within the past three (3) years, with a relative of a client, or with a person with whom the client maintains a close personal relationship when it has the potential to be harmful to the client. A social worker must not provide social work services to a person with whom he/she has had a romantic or sexual relationship. ()

02. The Social Worker's Conduct and Comportment as a Social Worker. ()

a. In providing services, a social worker may not discriminate on the basis of age, gender, race, color, religion, national origin, mental status, physical disability, social or economic status, political belief, or any other preference or personal characteristic, condition or status. ()

b. Social workers may not undertake any activity in which their personal problems are likely to lead to inadequate performance or harm to a client, colleague, student, or research participant. If engaged in such activity when they become aware of their personal problems, they must seek competent professional assistance to determine whether they should suspend, terminate, or limit the scope of their professional activities. ()

c. A social worker may not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker may not practice under a mental or physical condition that impairs the ability to practice safely. ()

d. A social worker may not repeatedly fail to keep scheduled appointments. ()

e. The social worker who anticipates the termination or interruption of service to clients must notify clients promptly and seek the transfer, referral, or continuation of services in relation to the clients' needs and preferences. ()

f. The social worker must attempt to make appropriate referrals as indicated by the client's need for services. ()

g. A social worker must obtain the client's or legal guardian's informed written consent when a client is to be involved in any research project. A social worker must explain the research, including any implications. ()

h. The social worker must obtain informed consent of clients before taping, recording, or permitting third party observation of their activities. ()

i. A social worker must safeguard information given by clients in providing client services. Except when required by law or judicial order, a social worker must obtain the client's informed written consent before releasing confidential information from the setting or facility except for compelling reasons defined as but not limited to: ()

i. Consultation with another professional on behalf of the client thought to be dangerous to self or others; ()

ii. Duty to warn pursuant to Chapter 19, Title 6, Idaho Code; ()

iii. Child abuse and sexual molestation pursuant to Chapter 16, Title 16, Idaho Code; and ()

iv. Any other situation in accordance with statutory requirements. ()

j. A social worker must report any violation of the law or rules, including Code of Professional Conduct, by a person certified under Chapter 32, Title 54, Idaho Code. ()

03. Competent Practice for Social Workers. All social workers must practice in a competent manner consistent with their level of education, training and experience. ()

a. A social worker must only represent himself and practice within the boundaries of his education, training, licensure level, supervision, and other relevant professional experience. ()

b. A social worker must only practice within new areas or use new intervention techniques or approaches after engaging in appropriate study, training, consultation, or supervision. ()

c. A social worker must exercise careful judgment, when generally recognized standards do not exist with respect to an emerging area of practice, and take responsible steps to ensure the competence of his practice. ()

04. The Advertising Rules for Social Workers. No social worker may disseminate or cause the dissemination of any advertisement or advertising that is any way fraudulent, false, deceptive or misleading. Any

advertisement or advertising is deemed by the board to be fraudulent, false, deceptive, or misleading if it: ()

- a. Contains a misrepresentation of fact; or ()
- b. Is misleading or deceptive because in its content or in the context in which it is presented it makes only a partial disclosure of relevant facts. More specifically, it is misleading and deceptive for a social worker to advertise free services or services for a specific charge when in fact the social worker is transmitting a higher charge for the advertised services to a third party payor for payment or charges the patient or a third party. It is misleading and deceptive for a social worker or a group of social workers to advertise a social work referral service or bureau unless the advertisement specifically names each of the individual social workers who are participating in the referral service or bureau. ()
- c. Creates false or unjustified expectations of beneficial treatment or successful outcomes; or ()
- d. Fails to identify conspicuously the social worker or social workers referred to in the advertising as a social worker or social workers; or ()
- e. Contains any representation or claims, as to which the social worker, referred to in the advertising, fails to perform; or ()
- f. Contains any representation which identifies the social worker practice being advertised by a name which does not include the terms “social worker,” “social work,” or some easily recognizable derivation thereof; or ()
- g. Contains any representation that the practitioner has received any license or recognition by the state of Idaho or its authorized agents, which is superior to the license and recognition granted to any social worker who successfully meets the licensing requirements of Chapter 32, Title 54, Idaho Code; or ()
- h. Appears in any classified directory, listing, or compendium under a heading, which when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to the profession or professional status of the social worker; or ()
- i. Contains any other representation, statement, or claim which is misleading or deceptive. ()

05. Dual Relationships. A social worker may not engage in dual or multiple relationships with clients, with relatives of a client, or with individuals with whom clients maintain close personal relationships, in which a reasonable and prudent social worker would conclude after appropriate assessment that there is a risk of harm or exploitation to the client or of impairing a social worker’s objectivity or professional judgment. A dual or multiple relationship is a relationship that occurs when a social worker interacts with a client in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively. After an appropriate assessment that the relationship does not create a risk of harm or exploitation to the client and will not impair a social worker’s objectivity or professional judgment, the social worker must document in case records, prior to the interaction, when feasible, the rationale for such a relationship, the potential benefit to the client, and anticipated consequences for the client. ()

06. Business Relationships. A social worker may not purchase goods or services from a client or otherwise engage in a business relationship with a client except when: ()

- a. The client is providing necessary goods or services to the general public; ()
- b. A reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and ()
- c. A reasonable and prudent social worker would determine that engaging in the business relationship will not be detrimental to the client or the professional relationship. ()

07. Bartering. Bartering is the acceptance of goods, services, or other nonmonetary remuneration from

a client in return for a social worker's services. Social workers may not barter except when such arrangement is not exploitative and: ()

- a. Is initiated by the client and with the client's written informed consent; and ()
- b. Has an easily determined fair market value of the goods or services received. ()

451. -- 474. (RESERVED)

475. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed social worker for each violation of Section 54-3211, Idaho Code. ()

02. Costs and Fees. The Board may order a licensed social worker to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3211, Idaho Code. ()

476. -- 999. (RESERVED)

**24.15.01 – RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL
COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS**

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-3404, Idaho Code.

()

001. SCOPE.

These rules govern the practice of professional counseling and practice of marriage and family therapists in Idaho.

()

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

01. ACA Code of Ethics. “ACA Code of Ethics,” as published by the American Counseling Association (ACA), effective 2014, is herein incorporated by reference and is available from the Board’s office and website.

()

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 January 1, 2015, is herein incorporated by reference and is available from the Board’s office and website.

()

03. 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 2007, is herein incorporated by reference and is available from the Board’s office and website.

()

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accredited University or College. An accredited university or college is a college or university accredited by a regional accrediting agency as identified by the U.S. Department of Education.

()

02. Face-to-face Setting. May include a secure live electronic face-to-face connection between the supervisor and supervisee.

()

03. Licensed Mental Health Professional Supervisor. A clinical professional counselor, marriage and family therapist, psychologist, clinical social worker, or psychiatrist, whose license in Idaho is active, current, and in good standing and who, when applicable, is registered as a supervisor with their respective licensing board.

()

04. Practicum. The term practicum includes a practicum, internship, or a combination, taken as part of the graduate level program.

()

05. Supplemental Practicum Hours. Supplemental practicum hours are hours of direct client contact that are supervised at a ratio of one (1) hour of supervision for every ten (10) hours of direct client contact by a registered supervisor for the profession for which the applicant is seeking licensure.

()

011. -- 149. (RESERVED)

150. QUALIFICATIONS FOR PROFESSIONAL COUNSELOR LICENSURE.

Licensure as a “professional counselor” is restricted to persons who have successfully completed the required examination and each of the following:

()

01. Graduate Program. Possess a master’s degree or higher, which includes an educational specialist degree, that is primarily counseling in nature, from an accredited university or college offering a graduate program in counseling, provided that the program is either:

()

a. Approved by the Council for Accreditation of Counseling and Related Educational Programs; or

()

b. A counseling program of at least sixty (60) semester hours or ninety (90) quarter hours in length and that at a minimum includes successful completion of one (1) graduate level course unique to the eight (8) areas and an advanced counseling practicum as follows: ()

i. Human growth and development: Includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on psychological, sociological, and physiological approaches. Also included are areas such as human behavior (normal and abnormal), personality theory, and learning theory. ()

ii. Social and cultural foundations: Includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural mores, use of leisure time, and differing life patterns. ()

iii. The helping relationship: Includes philosophic bases of the helping relationship: Consultation theory and/or an emphasis on the development of counselor and client (or consultee) self-awareness and self-understanding. ()

iv. Groups: Includes theory and types of groups, as well as descriptions of group practices, methods dynamics, and facilitative skills. It includes either a supervised practice and/or a group experience. ()

v. Life-style and career development: Includes areas such as vocational-choice theory, relationship between career choice and life-style, sources of occupational and educational information, approaches to career decision-making processes, and career-development exploration techniques. ()

vi. Appraisal of the individual: Includes the development of a framework for understanding the individual, including methods of data gathering and interpretation, individual and group testing, case-study approaches and the study of individual differences. Ethnic, cultural, and sex factors are also considered. ()

vii. Research and evaluation: Includes areas such as statistics, research design, and development of research and demonstration proposals. It also includes understanding legislation relating to the development of research, program development, and demonstration proposals, as well as the development and evaluation of program objectives. ()

viii. Professional orientation: Includes goals and objectives of professional counseling organizations, codes of ethics, legal consideration, standards of preparation, certification, and licensing and role of identity of counselors. ()

ix. Advanced counseling practicum: Complete at least two (2) semester courses of an advanced counseling practicum taken at the graduate school level, provided that the applicant completed a total of two hundred eighty hours (280) of direct client contact that is supervised at the ratio of at least one (1) hour of one-to-one supervision for every ten (10) hours of experience in the setting. An applicant may complete one (1) supplemental practicum hour for every hour in which the practicum was deficient and that meets the requirements of Subsection 230.02 of these rules. ()

02. Supervised Experience Requirement. One thousand (1,000) hours of supervised experience in counseling acceptable to the Board. ()

a. One thousand (1,000) hours is defined as one thousand (1,000) clock hours of experience working in a counseling setting, four hundred (400) hours of which must be direct client contact. Supervised experience in practicum taken at the graduate level may be utilized. The supervised experience includes a minimum of one (1) hour of face-to-face or one-to-one (1/1) or one-to-two (1/2) supervision with the supervisor for every twenty (20) hours of job/internship experience. ()

b. Supervision must be provided in compliance with the ACA Code of Ethics that was adopted by the Board at the time the supervision and provided by a counselor education faculty member at an accredited college or university, Professional Counselor, registered with the Board as a supervisor, or a licensed mental health professional supervisor as defined in these rules. If the applicant's supervision was provided in another state, it must have been

provided by a counseling professional licensed by that state, provided the requirements for licensure in that state are substantially equivalent to the requirements in Idaho. ()

c. Experience in counseling is defined as assisting individuals or groups, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting interests, abilities, aptitudes, and needs as related to personal-social concerns, educational progress, and occupations and careers. Counseling experience may include the use of appraisal instruments, referral activities, and research findings. ()

d. The Board considers the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. ()

151. -- 224. (RESERVED)

225. CLINICAL PROFESSIONAL COUNSELOR LICENSURE.

Licensure as a "clinical professional counselor" is restricted to applicants who have successfully passed the required examination and have met the following: ()

01. License. Hold a "professional counselor" license in this state or a license or other authorization in another state that has substantially similar requirements to a licensed professional counselor in this state, provided the license or authorization is current and in good standing; and ()

02. Experience. 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 or other authorization to practice in any state. ()

a. All applicants must provide verification of meeting at least one thousand (1,000) hours of supervised experience under the supervision of a licensed Clinical Professional Counselor registered as a supervisor with the Board. The remainder of the supervision may be provided by a licensed mental health professional supervisor as defined in these rules. If the applicant's supervision was provided in another state, it must have been provided by a counseling professional licensed by that state, provided the requirements for license and supervision are substantially equivalent to the requirements in Idaho. ()

b. One (1) hour of clinical supervision for every thirty (30) hours of direct client contact is required. Individual supervision is defined as 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. Supervision must be provided in a face-to-face setting. ()

c. No more than one-half (1/2) of the required supervision hours may be group supervision. ()

03. Recommendation of the Supervisor(s). The Board considers the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. ()

226. -- 229. (RESERVED)

230. QUALIFICATIONS FOR ASSOCIATE MARRIAGE AND FAMILY THERAPIST.

An applicant for associate marriage and family therapist licensure must pass the required examination and meet the following: ()

01. Graduate Degree. Possess a graduate degree as outlined in Subsection 238.01 of these rules or a master's degree or higher in marriage and family therapy or a related field from an accredited university or college, provided that the graduate program meets one of the following: ()

a. Accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or ()

b. Accredited by the Council for Accreditation of Counseling and Related Educational Programs-Marriage, Couple, and Family Counseling (CACREP-MCFC); or ()

c. The program includes, at a minimum, twenty-seven (27) semester credits or thirty-six (36) quarter credits of the graduate level coursework set forth in Subsection 238.01.b of these rules. ()

02. Practicum. Completion of a supervised practicum in no less than a twelve (12) month period as part of the graduate program. The practicum must consist of at least three hundred (300) hours of direct client contact, of which at least one hundred fifty (150) hours must be with couples, families and other systems, provided that the Board may grant a license to an applicant who completed a practicum with fewer than the required hours and completed one (1) supplemental practicum hour for every hour in which the practicum was deficient. Supplemental practicum hours must be completed as: ()

a. A Registered Intern under Section 245 of these rules; or ()

b. Supervised practice in another jurisdiction that is sufficient to be considered substantially similar to the supplemental practicum hour requirements of these rules; or ()

c. A combination of Paragraph 02.a. and 02.b. of this subsection. ()

231. – 237. (RESERVED)

238. MARRIAGE AND FAMILY THERAPISTS.

An applicant for marriage and family therapist licensure must pass the required examination and meet the following: ()

01. Graduate Degree. Possess a master’s degree or higher in marriage and family therapy or a related field from an accredited university or college provided that the program is either: ()

a. Accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or ()

b. A program of at least sixty (60) semester hours or ninety (90) quarter hours in length and that includes at a minimum: ()

i. Marriage and family studies – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling; family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems; ()

ii. Marriage and family therapy – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes the practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction; ()

iii. Biopsychosocial health and development across the lifespan – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes individual development and transitions across the life span; family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability; human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution; ()

iv. Psychological and mental health competency – Six (6) semester credit hours or eight (8) quarter

credit hours: includes psychopathology, including etiology, assessment, evaluation and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multiaxial diagnosis; standard mental health diagnostic assessment methods and instruments, including standardized tests; and psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples, families, and other systems and relational groups; ()

v. Professional ethics and identity – Three (3) semester credit hours or four (4) quarter credit hours: includes professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines; ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and the interface between therapist responsibility and the professional, social and political context of treatment; ()

vi. Research – Three (3) semester credit hours or four (4) quarter credit hours: includes research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research. ()

02. Practicum. Completed a supervised practicum, including any supplemental practicum hours, which meets the requirements of Subsection 230.02 of these rules. ()

03. Supervised Marriage and Family Therapy Experience. Completed at least three thousand (3,000) hours of graduate or post-graduate supervised experience in marriage and family therapy that meets the following requirements: ()

a. A minimum of two thousand (2,000) post-master’s direct client contact hours, over a period of not less than two (2) years, which must include a minimum of one thousand (1,000) direct client contact hours with couples, families, and other systems; and ()

b. A minimum of two hundred (200) hours of post-master’s supervision. ()

c. Other hours must support development as a marriage and family therapist, and may include: additional hours of supervision, additional practicum hours above the three hundred (300) hours required in Subsection 230.02 of these rules, writing clinical reports, writing case notes, case consultation, coordination of care, administering tests, and attending workshops, training sessions, and conferences. ()

d. A minimum of one hundred (100) hours post-master’s supervision must be obtained from a registered marriage and family therapist supervisor. The remaining one hundred (100) hours of supervision may also be obtained from a licensed mental health professional supervisor as defined in these rules who documents: ()

i. A minimum of five (5) years of experience providing marriage and family therapy; and ()

ii. Fifteen (15) contact hours of education in supervisor training; and ()

iii. Has not been the subject of any disciplinary action for five (5) years immediately prior to providing supervision. ()

e. No more than one hundred (100) hours of group supervision are allowed. Group supervision is defined as up to six (6) supervisees and one (1) supervisor; and ()

f. Individual supervision is defined as up to two (2) supervisees per supervisor; and ()

g. Supervision must employ observation of client contact such as the use of audio technologies or video technologies or co-therapy, or live supervision; and ()

- h.** A supervisor may not act as an applicant’s personal Professional Counselor/Therapist. ()
- i.** The Board considers the recommendation of the supervisor(s) when determining the acceptability of the applicant’s supervised experience. ()
- j.** Supervision obtained in another jurisdiction or from a supervisor in another jurisdiction must conform with the jurisdiction’s requirements provided they are substantially equivalent to Idaho’s requirements. ()

239. SUPERVISOR REQUIREMENTS.

Licensees in Idaho must be registered with the board to provide supervision for those individuals pursuing licensure in the state of Idaho as a counselor or marriage and family therapist. ()

01. Requirements for Registration. The board will register an applicant who: ()

- a.** Possesses two (2) years experience as a licensed counselor or marriage and family therapist, respective to the profession for which the applicant seeks registration as a supervisor, and document at least one thousand five hundred (1,500) hours of direct client contact as a counselor or two thousand (2,000) hours of direct client contact with couples, families, and other systems as a marriage and family therapist. ()
- b.** Documents fifteen (15) contact hours of education in supervisor training as approved by the Board. ()
- c.** Has not been subject to discipline for five (5) years prior to registration, provided that the Board may in its discretion approve a supervisor with disciplinary action for failing to complete continuing education requirements. ()

02. Supervision. ()

- a.** A registered supervisor must provide supervision in conformance with the guidelines for supervisors set forth in the ACA Code of Ethics for counselor supervisors or the American Association for Marriage and Family Therapists and the guidelines set forth in the AAMFT Code of Ethics for marriage and family therapist supervisors. ()
- b.** Unless the primary work role of an individual is as a clinical supervisor, a registered supervisor may not supervise more than six (6) supervisees concurrently. ()
- c.** Supervision must be provided in a face-to-face setting. ()
- d.** A registered supervisor must ensure that informed consent containing information about the roles of the supervisor and supervisee is obtained from clients of the supervisee. ()

03. Renewal. A supervisor’s registration is valid for a term of five (5) years, provided the supervisor’s license remains current, active, in good standing, and is not subject to discipline. To renew a supervisor registration, the licensee must submit to the Board a complete application for registration renewal and document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous twenty-four (24) months, unless good cause is shown. ()

240. EXAMINATION FOR LICENSURE.

Applicants must have successfully completed the required written examination. ()

01. Examination. The required written examination is: ()

- a.** For counselor applicants, the National Counselor Examination prepared by the National Board of Certified Counselors (NBCC). ()

b. For clinical counselor applicants, the National Clinical Mental Health Counselor Examination (NCMHCE) prepared by the National Board of Certified Counselors (NBCC). ()

c. For associate marriage and family therapist and marriage and family therapist applicants, the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or another recognized competency examination in marriage and family therapy that is approved by the Board. ()

02. Time and Place. The examination will be conducted at a time and place specified by the Board or the examining entity. ()

03. Successful Passage. Successful passage of the examination is defined as achievement of the passing score set by the preparer of the examination. Reexamination consists of the entire examination. ()

241. NON-UNITED STATES EDUCATED APPLICANTS.

Applicants with a graduate degree from a country other than the United States may be required to submit a certification from a credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or approved by the Board. The service must certify that the graduate degree is equivalent to a graduate degree from the United States. All costs for the certification are the responsibility of the applicant. All information submitted to the Board must be submitted with an English translation. ()

242. -- 244. (RESERVED)

245. REGISTERED INTERNS.

The Board may issue a registration to allow an intern to engage in the practice of counseling or marriage and family therapy while completing either the supervised experience or supplemental practicum hours required for licensure. A registered intern may only practice under the direct supervision of a person registered as a supervisor with the Board or otherwise approved to provide supervision under this chapter. ()

01. Requirements for Registration. An applicant must meet the following requirements: ()

a. Possess a graduate degree in counseling, marriage and family therapy, or a closely related field from an accredited university or college. ()

b. Designate a supervisor who is registered with the board as a supervisor as set forth in these rules or who is otherwise approved to provide marriage and family therapy supervision as set forth in Section 238 of these rules. ()

02. Supervision. The designated supervisor is responsible to provide supervision and ensure that a Registered Intern is competent to practice such counseling or marriage and family therapy as may be provided. ()

03. Designation of Intern Status. Only a Registered Intern may use the title Registered Counselor Intern or Registered Marriage and Family Therapist Intern. Registered interns must explicitly state that they are interns in their documentation and advertising, such as business cards, informed consent forms, and other disclosures. ()

04. Expiration. An individual may not practice as an intern for more than four (4) years from the original date of registration, unless good cause is demonstrated to the board. ()

246. -- 249. (RESERVED)

250. FEES.

01. Application, License, and Registration Fee. All fees are non refundable:

LICENSE/PERMIT/REGISTRATION	INITIAL FEE (Not to Exceed)	ANNUAL RENEWAL FEE (Not to Exceed)
Application	\$100	
License	\$100	\$120
Intern Registration	\$25	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code	
Senior License		\$60
Inactive License		\$60
Inactive to Active License Fee	The difference between the current inactive and active license renewal fees	

()

02. Examination or Reexamination Fee. The examination or reexamination fees are the fees set by the provider of the approved examination plus an administration fee of twenty-five dollars (\$25) for the Marriage and Family Therapy examination. ()

251. -- 299. (RESERVED)

300. ENDORSEMENT.

The Board may grant a license by endorsement to an applicant who pays the required fee, submits a completed board-approved application, and satisfies the Board that they hold a valid and current license in good standing issued by the authorized regulatory entity of another state, territory, or jurisdiction of the United States, which in the opinion of the Board imposes substantially equivalent licensing requirements. ()

301. -- 349. (RESERVED)

350. CODE OF ETHICS.

The Board adopts the American Counseling Association (ACA) Code of Ethics and the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics. All licensees must adhere to the appropriate Code of Ethics pertaining to their licensure. ()

351. -- 359. (RESERVED)

360. INACTIVE STATUS.

01. Request for Inactive Status. Each person requesting an inactive status must submit a written request and pay the established fee. ()

02. Inactive License Status. ()

a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license. ()

b. When the licensee desires active status, the licensee must show acceptable fulfillment of continuing education requirements for the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee, provided that a licensee whose license has been inactive five (5) years or more must provide an account to the Board for that period of time during which the license was inactive and fulfill requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education,

supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency. ()

c. Licensees may not practice or supervise counseling or marriage and family therapy in Idaho while on inactive status. ()

361. -- 374. (RESERVED)

375. SENIOR STATUS.

01. Request for Senior Status. Each person having attained the age of sixty-five (65) and requesting a senior status during the renewal of their active license must submit a written request and pay the established fee. ()

02. Continuing Education. Continuing education must be completed annually per Section 425 of this rule. ()

376. -- 424. (RESERVED)

425. CONTINUING EDUCATION.

All licensees must complete in each twenty-four-month period preceding the renewal of a license, forty (40) contact hours of continuing education. A contact hour is one (1) hour of actual participation in a continuing education activity, exclusive of breaks. ()

01. Contact Hours. The contact hours of continuing education must be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. No less than six (6) contact hours for each renewal period must be in ethics, which must be specific to legal issues, law, or ethics. Therapeutic workshops, retreats and other self-help activities are not considered continuing education training unless specific parts of the experience are applicable to counseling or therapy practice. ()

02. Documentation of Attendance. Each licensee must maintain documentation verifying hours of attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution. This documentation is subject to audit and must be provided upon request by the Board or its agent. ()

03. Approved Contact Hours, Limitations, and Required Documents. ()

a. College or University Courses for Credit or Audit. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. However, all courses are subject to Board approval. For college or university courses, one (1) semester credit equals fifteen (15) contact hours; one (1) quarter credit equals ten (10) contact hours. The licensee must provide the Board with a copy of the licensee's transcript substantiating any hours attended by the licensee. ()

b. Seminars, Workshops, Conferences. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. Verifying documentation is a copy of the certificate, or letter signed by course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. ()

c. Publications. A maximum of eight (8) contact hours may be counted in this category during each reporting period. Publication activities are limited to articles in journals, a chapter in an edited book, or a published book or professional publication. Verifying documentation is a copy of the cover page or the article or book in which the licensee has been published. For a chapter in an edited book the licensee must submit a copy of the table of contents. ()

d. Presentations. A maximum of eight (8) contact hours may be counted in this category during each reporting period. Class, conference, or workshop presentations may be used for contact hour credit if the topic is germane to the field. A specific presentation given repeatedly can only be counted once. A particular presentation

will qualify for contact hour credit one (1) time in a five (5) year period. Only actual presentation time may be counted; preparation time does not qualify for contact hour credit. Verifying documentation is a copy of the conference program or a letter from the sponsor, host organization, or professional colleague. ()

e. Clinical Supervision and Case Consultation. A maximum of ten (10) contact hours of received supervision/consultation may be counted in this category during each reporting period. In order to qualify for contact hour credit, supervision/consultation must be received on a regular basis with a set agenda. No credit will be given for the licensee's supervision of others. Verifying documentation is a letter from the supervisor or consultant listing periods of supervision or consultation. ()

f. Dissertation. A maximum of ten (10) contact hours may be counted in this category during each reporting period. Verifying documentation is a copy of the licensee's transcript and the title of the dissertation. ()

g. Leadership. A maximum of eight (8) contact hours may be counted in this category during each reporting period. Verifying documentation is a letter from a professional colleague listing the position of leadership, periods of leadership, and the name of the organization under which the leadership took place. The following leadership positions qualify for continuing education credits: ()

- i. Executive officer of a state or national counseling or therapy organization; ()
- ii. Editor or editorial board service of a professional counseling or therapy journal; ()
- iii. Member of a national ethics disciplinary review committee rendering licenses, certification, or professional membership; ()
- iv. Active member of a counseling or therapy working committee producing a substantial written product; ()
- v. Chair of a major counseling or therapy conference or convention; or ()
- vi. Other leadership positions with justifiable professional learning experiences. ()

h. Home Study and On-line Education. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. Home study or on-line courses qualify for contact hours, provided that the course is provided by a Board-approved continuing education provider or a course pre-approved by the Board. Verifying documentation is a copy of the certification that is verified by the authorized signatures from the course instructors, providers, or sponsoring institution and substantiates any hours completed by the licensee. A licensee seeking contact credit for reading a publication must submit results from a test on the information contained within the publication and administered by an independent third-party. ()

i. Board Meetings. Continuing education credit may be granted for a maximum of four (4) hours each renewal period for time spent attending two (2) Board meetings. ()

04. Waiver. The Board may waive continuing education requirements for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must request such waiver prior to renewal and provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ()

426. – 524. (RESERVED)

525. DOCUMENTATION OF INFORMED CONSENT.

In accordance with Section 54-3410A, Idaho Code, all licensees and registered interns will document the process of obtaining the informed consent of clients at the beginning of treatment and at other times as appropriate. Licensees and interns must adhere to their respective Codes of Ethics and state law in obtaining informed consent and disclosing information to clients. The receipt of the disclosure must be acknowledged in writing by both the client and the licensee or intern, and such disclosure of information concerning their practice must include: ()

- 01. Name, Business Address and Phone Number of Licensee or Intern.** If the licensee or intern is practicing under supervision, the statement must include the licensee or intern status as such and the designated qualified supervisor's name, business address and phone number; ()
- 02. License Type and License Number, Credentials, and Certifications.** ()
- 03. Education.** Education with the name(s) of the institution(s) attended and the specific degree(s) received; ()
- 04. Theoretical Orientation and Approach.** Counseling or marriage and family therapy; ()
- 05. Relationship.** Information about the nature of the clinical relationship; fee structure and billing arrangements; cancellation policy; ()
- 06. The Extent and Limits of Confidentiality.** ()
- 07. Written Statement.** A statement that sexual intimacy is never appropriate with a client and should be reported to the board. ()
- 08. Client's Rights.** The client's rights to be a participant in treatment decisions, to seek a second opinion, to file a complaint without retaliation, and to refuse treatment. ()
- 09. Board Information.** The name, address, and phone number of the Board with the information that the practice of licensees and interns is regulated by the Board. ()
- 526. -- 999. (RESERVED)**

24.16.01 – RULES OF THE STATE BOARD OF DENTURITRY

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-3309. ()

001. SCOPE.

These rules govern the practice of denturistry in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Denturist Services. For purposes of the unconditional ninety (90) day guarantee prescribed in Section 54-3320(c), Idaho Code, denturist services include any and all prosthetic dental appliances and materials and/or services related to the furnishing or supplying of such a denture, including preparatory work, construction, fitting, furnishing, supplying, altering, repairing or reproducing any prosthetic dental appliance or device. ()

02. Denture Technician. A person who is limited to making, constructing, altering, reproducing or repairing of a full upper or lower removable prosthetic denture, the repairing of a removable partial upper or lower prosthetic denture but is not allowed to make an impression or come in direct contact with a patient. ()

011. -- 149. (RESERVED)

150. EXAMINATIONS.

01. Date of Licensure Examination. The licensure examination will be held no less than two (2) times per year at such times and places as may be determined by the Board. ()

02. Content. Examinations include both a written theory examination and a practical demonstration of skills. ()

03. Grading. An applicant must obtain a score of seventy-five percent (75%) or better on each part of the examination in order to pass the examination. ()

04. Re-Examination. ()

a. Applicants who fail either part or all of the examination will be required to make application and pay the required fees prior to being eligible to retake the failed part of the examination. ()

b. Applicants failing either part or all of the examination on the first attempt will not be required to complete any additional instruction prior to being eligible to make application and retake the examination. ()

c. Applicants failing either part or all of the examination on a second attempt and all subsequent attempts are not eligible to make application and retake the examination within one (1) year of the date of the examination failure. The Board may recommend additional course work or clinical work for any applicant who has failed an examination two (2) or more times. ()

151. -- 199. (RESERVED)

200. APPLICATIONS.

01. Application Form for Licensure. Applications for licensure must be made on forms approved by the Board and furnished by the Division of Occupational and Professional Licenses and include all other documents necessary to establish the applicant meets the requirements for licensure except examination and is eligible to take the licensure examination. ()

02. Authorization for Examination. ()

a. After the Board evaluates the applicant's qualifications to take the examination the applicant will be notified in writing of the approval or denial, and, if denied, the reason for the denial. ()

b. At the time the Board approves an applicant to take the examination the Board will set the date and location(s) of the next examination if it has not already been set. Approved applicants will be notified of the date and

location(s) of the next examination. ()

201. -- 249. (RESERVED)

250. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750

()

251. -- 299. (RESERVED)

300. INTERNSHIP.

01. Requirements and Conditions for Internship. ()

a. To be eligible for internship the applicant must have completed: ()

i. The educational requirements set forth in Section 54-3310(b), Idaho Code; or ()

ii. Have dentistry experience of three (3) years within the five (5) years immediately preceding application. ()

b. Where an internship is established based on experience, the internship is valid only while the intern is actively pursuing completion of Idaho licensure requirements. ()

c. Application must be made on forms provided by the Division of Occupational and Professional Licenses and must: ()

i. Document the location of practice; ()

ii. Include the name and address of the supervising dentist or dentist; ()

iii. Include a sworn or affirmed statement by the supervising dentist or dentist; ()

iv. Include a sworn or affirmed statement by the supervisor accepting supervision of the intern; ()

v. Include a sworn statement by applicant that he is knowledgeable of law and rules and will abide by all requirements of such law and rules; and ()

vi. Include such other information necessary to establish applicant's qualifications for licensure as a dentist and establish compliance with pre-intern requirements. ()

d. The supervising dentist or dentist must be present and directly observe any intern interaction with a patient. ()

e. Two (2) years of internship under the supervision of a licensed denturist must be completed in not less than twenty-four (24) months and may not exceed thirty (30) months except as approved by the Board. ()

02. Internship Equivalency. A person is considered to have the equivalent of two (2) years internship under a licensed denturist who has met and verifies one (1) of the following within the five (5) years immediately preceding application: ()

a. Two (2) years internship as a denture lab technician under a licensed dentist; or ()

b. Two (2) years in the military as a denture lab technician; or ()

c. Three (3) years experience as a denturist under licensure in another state or Canada. ()

03. Internship Not to Exceed One Year. Internship not to exceed one (1) year acquired through a formal training program in an acceptable school will be accepted toward the two (2) year required internship for licensure. ()

04. Training Requirements. Each year of required internship consists of two thousand (2,000) clock hours of training and performance of the following minimum procedures for licensure. ()

a. Procedures include all steps required in constructing a finished denture but are not limited to the following: ()

i. Patient charting -- thirty-six (36) minimum. ()

ii. Operatory sanitation -- thirty-six (36) minimum. ()

iii. Oral examination -- thirty-six (36) minimum. ()

iv. Impressions, preliminary and final (pour models, custom trays) -- thirty-six (36) minimum. ()

v. Bite registrations -- twelve (12) minimum. ()

vi. Articulations -- twelve (12) minimum. ()

vii. Set ups -- twelve (12) minimum. ()

viii. Try ins -- twelve (12) minimum. ()

ix. Processing (wax up, flask-boil out, packing, grind-polish) -- thirty-six (36) minimum. ()

x. Delivery-post adjustment -- thirty-six (36) minimum. ()

b. Processed relines (one (1) plate = one (1) unit) -- twenty-four (24) units. ()

c. Tooth repairs -- forty-eight (48) minimum. ()

d. Broken or fractured plates or partials -- forty-eight (48) minimum. ()

05. Reporting Requirements. Interns must file reports, attested to by the supervisor, with the Board on forms provided by the Division of Occupational and Professional Licenses on a monthly basis and recapped at termination or completion of the training. ()

06. Denture Clinic Requirements. Denture clinic requirements for approved internship training: ()

a. There may not be more than one (1) internee per licensed denturist or dentist who is practicing at

the clinic on a full time basis. ()

b. There must be a separate work station in the laboratory area for each intern with standard equipment, i.e. lathe, torch and storage space. The intern must provide necessary hand tools to perform the duties of the denture profession. Use of the operatory facilities and other equipment will be shared with the intern. ()

07. Internship Supervisor Requirements. ()

a. A supervisor must: ()

i. Be approved in advance by the Board for each internship. ()

ii. Not have been the subject of any disciplinary action by the Board, by the Idaho Board of Dentistry or by any other jurisdiction for five (5) years immediately prior to being approved as the supervisor. ()

b. A supervisor that is a denturist must: ()

i. Hold an Idaho denturist license that is current and in good standing and is renewed as provided in these rules; and ()

ii. Have actively practiced dentistry for at least three (3) of the five (5) years immediately prior to being approved as the supervisor. ()

c. A supervisor that is a dentist must: ()

i. Hold an Idaho dentist license that is current and in good standing and is renewed as provided in Chapter 9, Title 54, Idaho Code; and ()

ii. Have actively practiced general dentistry, or a dental specialty accepted by the Board, for at least three (3) of the five (5) years immediately prior to being approved as a supervisor. ()

d. Supervise only one (1) intern. A supervisor will not be approved to supervise more than one (1) intern at a time. ()

e. Termination of supervisor approval. Approval of the supervisor immediately terminates if the supervisor is disciplined or ceases to meet supervisor requirements. ()

301. -- 314. (RESERVED)

315. INACTIVE LICENSURE STATUS.

01. Request License be Placed on Inactive Status. A dentistry licensee may request the Board that his license be placed upon inactive status for no more than five years. A licensee on inactive status may not provide or perform denturist services. ()

02. Reactivating Inactive License. A licensee on inactive status may reactivate his license to active status by paying the renewal fee for an active license and providing proof they have completed and obtained such continuing education as required by Board rule. ()

316. -- 349. (RESERVED)

350. CONTINUING EDUCATION.

The Board may accredit education programs for purposes of continuing education where the subject matter of the program is determined to be pertinent to the practice of dentistry. ()

01. Subjects. Subjects deemed pertinent to the practice of dentistry are those set forth in Section 54-3311(b), Idaho Code and may also include ethics courses. ()

02. Request for Approval. Requests for approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. The request must also address the matters set forth in Subsection 350.05 below. Requests may accompany the annual renewal form or may be made to the Board in advance of the program for which approval is sought as indicated in Subsection 350.03, below. ()

03. Requests for Pre-Approval. Requests for pre-approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. Requests for pre-approval must also address the matters set forth in Subsection 350.05 below. ()

a. Requests for pre-approval must be received by the Division of Occupational and Professional Licenses no less than eleven (11) working days prior to the date of the program. ()

b. Requests for pre-approval which are not denied within ten (10) working days from receipt by the Division will be deemed approved. ()

c. Only those continuing education programs sponsored by recognized educational institutions (such as accredited colleges or universities), state or national dentist boards or associations, will be eligible for pre-approval consideration by the Board. All other programs will be considered at the time of renewal. ()

04. Credit for Continuing Education Attendance. Continuing education credit will be given only for actual time in attendance by the licensee. No credit will be given for non-instructive time. Correspondence or Home Study courses are not eligible for continuing education credits. ()

05. Requests for Approval of Programs. All requests for approval or pre-approval of educational programs must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, and a statement by the licensee of how the course is believed to be pertinent to the practice of dentistry as specified in Section 54-3311(b), Idaho Code. ()

351. -- 399. (RESERVED)

400. INSPECTIONS.

01. Who May Examine or Inspect. The Board or its agents may examine and inspect the place of business of any dentist at anytime during business hours or upon at least seventy-two (72) hours notice made by U.S. mail to the address of record of the dentist when the Board or its agents are unable to establish the regular business hours. ()

02. Reason for Inspection. Inspections are made to insure compliance with the Standards of Conduct and practice set forth in Section 450. Deficiencies are a violation of Section 450 and actionable against the dentist under Section 54-3314(c), Idaho Code. ()

401. -- 449. (RESERVED)

450. STANDARDS OF CONDUCT AND PRACTICE.

01. Sanitation. ()

a. There must be three (3) separate rooms; a reception room, and operator room and a laboratory. ()

b. The operator room must have hot and cold running water, basin with approved disposal system; disinfectant soap; single-use towels, a cuspidor with running water and a closed waste receptacle. ()

c. The laboratory room must have hot and cold running water, and basin with approved disposal system. ()

- d. There must be a method of sterilization and disinfection evident and in use to insure the protection of the public. ()
- e. All floors, walls, ceiling and benches must be kept in a sanitary condition at all times. ()
- f. Every patient must have a separate and clean bib and a disposable cup. ()
- g. The hands of every denturist must be washed in the presence of every patient with germicidal or antiseptic soap and water. Every denturist must wear disposable gloves. ()
- h. Adequate and conveniently located toilet facilities with hot and cold running water, basin with approved disposal system, soap and single use towels will be provided within the building. ()
- i. All denturist offices are open to inspection anytime during the business hours to inspection by the Board or its agents. ()
- 02. Office Standards.** ()
- a. Denturists must take care to use proper sterilization and sanitation techniques in all phases of their work. ()
- b. A complete record of each patient must be kept. ()
- c. All teeth and materials used must meet ADA standards. ()
- 03. Advertisements.** ()
- a. No denturist may disseminate or cause the dissemination of any advertisement or advertising that is any way fraudulent, false, deceptive or misleading. ()
- 04. General Conditions.** ()
- a. Conditions deemed by investigators to be a menace to the public health will be brought to the attention of the Board for consideration and immediate action. ()
- b. These Standards of Conduct and Practice must be conspicuously posted in every licensed denturist's place of business. ()
- 05. Patient Record.** A denturist must record, update and maintain documentation for each patient relevant to health history, clinical examinations and treatment, and financial data. Documentation must be written or computerized. Records must be maintained in compliance with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records must be accessible to other providers and to the patient in accordance with applicable laws, rules and regulations. Records must include, but are not limited to, the following: ()
- a. Patient data, including name, address, date and description of examination; ()
- b. Evidence of informed consent; ()
- c. Date and description of treatment, services rendered, and any complications; ()
- d. Health history as applicable; and ()
- e. Any other information deemed appropriate to patient care. ()

06. Record Retention. Patient documentation, written or archived electronically by computer, must be retained for a minimum of seven (7) years and available upon request by the Board. ()

451. -- 474. (RESERVED)

475. REGISTRATION STATEMENT.

To enable the Board to examine or inspect the place of business of any licensed dentist as referred to in Section 54-3314(5)(b), Idaho Code, the filing of an annual statement is required of all licensed dentists. ()

01. Statement. must list the name and principal place of business of the dentist who is responsible for the practice of dentistry at that location. ()

02. Other Business Locations. Any other business locations maintained by the principal dentist and all dentists employed at the business. ()

03. Date of Filing. must be filed with the Board annually or within ten (10) days of any change in either location, identity of principal dentist or dentist employees. ()

04. Failure to Timely File. Failure to timely file or update this statement will constitute grounds for discipline pursuant to Section 54-3314(a), Idaho Code. ()

476. GUARANTEE OF DENTIST SERVICES.

As prescribed in Section 54-3320(c), Idaho Code, unconditional guarantee of dentist services will require that the licensee refund, in full, any monies received in connection with the providing of dentist services, if demanded by the purchaser within ninety (90) days of delivery of the dentures, or the providing of services for which a fee is charged. ()

01. Ninety Day Period. The ninety (90) day period will be tolled for any period in which the dentist has taken possession or control of the dentures after original delivery. ()

02. Written Contract. By written contract signed by the purchaser, the dentist may specify the amount of the purchase price of the dentures, if any, that is nonrefundable should the consumer choose to cancel the purchase within the guarantee period. ()

03. Nonrefundable Amount. Under no circumstances will the nonrefundable amount exceed twenty-five percent (25%) of the total purchase price of the dentures. ()

04. Limitation. There is no limitation on the consumer's right to cancel. ()

05. Cancellation of Agreement. If the licensee elects to cancel the agreement or refuses to provide adjustments or other appropriate services to the consumer, the consumer will be entitled to a complete refund. ()

477. -- 479. (RESERVED)

480. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed dentist for each violation of Section 54-3314(a), Idaho Code. ()

02. Costs and Fees. The Board may order a licensed dentist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3314(a), Idaho Code. ()

481. -- 999. (RESERVED)

24.17.01 – RULES OF THE STATE BOARD OF ACUPUNCTURE

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-4705, Idaho Code. ()

001. SCOPE.

These rules review and establish the minimum requirements for licensure/certification of acupuncturists. ()

002. DEFINITIONS.

01. Approved Acupuncture Program. A formal full-time acupuncture educational program that has met the standards of the Accreditation Commission for Acupuncture and Oriental Medicine or an equivalent educational body. An acupuncture program may be established as having satisfied this requirement by obtaining: ()

a. Accreditation; or ()

b. Candidacy for accreditation; or ()

c. An equivalent evaluation performed by a private, state government, or foreign government agency recognized for that purpose by the NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) Eligibility Committee. ()

02. Practitioner. A person to whom a license, certification, or acupuncture trainee has been issued pursuant to Title 54, Chapter 47, Idaho Code. ()

003. -- 099. (RESERVED)

100. QUALIFICATIONS FOR LICENSURE OR CERTIFICATION.

01. Requirements for Licensure. Applicants for licensure must submit a complete application on a Board approved form, required fee, and official certified documentation of either: ()

a. Certification from NCCAOM or graduation from an approved full-time acupuncture program of at least one thousand seven hundred twenty-five (1,725) hours of entry-level acupuncture education which includes a minimum of one thousand (1000) hours of didactic course work and five hundred (500) clinical hours of practice; and ()

b. Successful completion of an acupuncture internship, or other equivalent experience as approved by the Board. ()

02. Requirements for Certification. As prescribed in Idaho Code § 54-4707. ()

101. ACUPUNCTURE TRAINEE PERMIT.

The Board may issue an acupuncture trainee permit in accordance with Section 54-4708, Idaho Code. The holder of an acupuncture trainee permit may practice only under the supervision of a person licensed or certified under this chapter who meets the requirements in Section 404 of these rules. An applicant must submit documentation demonstrating current enrollment in an Approved Acupuncture Program and actively pursuing completion of the program; or satisfaction of the requirement for certification as set forth in Section 54-4707, Idaho Code. ()

102. REQUEST FOR APPROVAL OF QUALIFICATION.

01. Course Review. A person or entity may request approval of a course of study in acupuncture that will be offered to qualify applicants for a credential to practice acupuncture. The request must include a complete description of the hours required in subsection 200.01.a, scope and extent of academic and other training and clinical experience offered through the course along with appropriate supporting documentation and course materials. ()

02. Individual Qualification. An applicant may request approval of his individual qualification for licensure or certification in acupuncture. The request must include a complete description of the number of hours, scope and extent of academic and other training and clinical experience the individual has received along with available supporting documentation. ()

103. REINSTATEMENT OF LICENSE.

The applicant must submit proof of having met the continuing education required as follows: ()

01. Expired for One Year or Less. For licenses or certificates expired for one (1) year or less, one (1) year of continuing education; ()

02. Expired More than One Year. For licenses or certificates expired for more than one (1) year, two (2) years of continuing education. ()

104. INACTIVE STATUS.

A currently licensed or certified practitioner may request in writing to have their license placed on inactive status and pay the inactive status fee. Such request must be made prior to the expiration date of the license. ()

01. Waiving Continuing Education Requirements – Inactive Status. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license. ()

02. Return to Active Status. ()

a. A licensee desiring to return to active status must complete the equivalent of one (1) year of continuing education for every year the license was inactive, up to a maximum of two (2) years of continuing education and submit a fee equivalent to the difference between the inactive fee and renewal fee for the year that the licensee returns to active status. ()

b. For licenses inactive five (5) years or greater, the licensee shall complete forty-five (45) hours of continuing education and either provide proof that the licensee has actively engaged in the practice of acupuncture in another state or territory of the United States for at least three (3) of the immediately preceding five (5) years or provide proof that the licensee is competent to practice acupuncture in Idaho. ()

105. CONTINUING EDUCATION REQUIREMENTS.

The content of a continuing education course must be germane to the practice of acupuncture as defined in Section 54-4702, Idaho Code. All practitioners are required to complete a minimum of thirty (30) hours of board approved continuing education within the preceding twenty-four (24) months. ()

01. Credit for Teaching or Supervision. Licensees may earn up to ten (10) hours of continuing education credit by teaching Board-approved courses or supervision of trainees. ()

02. Board Approval. Approved continuing education courses are those courses, programs, and activities that are approved or provided by NCCAOM, accredited acupuncture and oriental medicine schools, or other courses that may be approved by the board. Other courses may be approved based upon documentation submitted by the licensee or course provider. All requests for approval or pre-approval of educational programs are made in writing and include the name of the instructor or instructors, the course agenda, and the number of credit hours requested. ()

106. -- 199. (RESERVED)

200. RECORDS.

A practitioner must keep accurate records of each patient the practitioner treats. The records must at a minimum include the name of the patient and the indication and nature of treatment given. ()

201. SUPERVISION PLAN.

A licensed or certified acupuncturist providing supervision to trainees shall be responsible for the services provided by such individuals. Failure to adequately supervise such an individual may subject the supervisor to discipline. ()

01. Supervision. For the first one hundred (100) hours of practice, the supervisor must provide supervision in the treatment room when the trainee is providing treatment. The supervisor will meet with the trainee in person at least monthly to review case studies and demonstrate acupuncture point location and needle placement technique. Before providing treatment without in-person supervision, the trainee must successfully complete a Blood

Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. ()

02. Documentation. Supervision document will include charting, diagnosis, and treatment plans, and will include the completion of twenty-five (25) case studies and verification and documentation of the hours of supervision and case studies. The supervisor and trainee will maintain records of supervision, including summary of case studies in progress or completed by the trainee under supervision, treatment plan for each patient, and the dates of supervision. ()

03. Termination of Supervision or Change in Supervisor. A supervisor may terminate supervision at any time by submitting written notice of termination to the Board. ()

202. – 299. (RESERVED)

300. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Section 54-4711, Idaho Code. ()

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4711, Idaho Code. ()

03. Advertising. A practitioner who disseminates or causes the dissemination of any advertisement or performs advertising including offers, statements, or other representations, which is in any way fraudulent, false, deceptive, or misleading, may be subject to discipline by the Board. ()

04. Unlicensed or Unsupervised Practice. Knowingly aided or abetted any person to practice acupuncture who is not authorized to practice acupuncture as provided in this chapter or failed to adequately supervise a trainee or auxiliary staff who have contact with patients which creates or results in an unreasonable risk of harm to the patient. ()

301. -- 399. (RESERVED)

400. FEES.

All fees are non-refundable:

License/Certification/Permit/Certification	Initial Fee (Not to Exceed)	Annual Renewal Fee (Not to Exceed)
Application	\$50	n/a
License	\$150	\$75
Certification	\$150	\$75
Acupuncture Trainee	\$150	\$50
Inactive License or Certification	n/a	\$50
Reinstatement	\$250	n/a

()

401. – 999. (RESERVED)

**24.19.01 – RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL
CARE FACILITY ADMINISTRATORS**

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-4205, Idaho Code. ()

001. SCOPE.

These rules govern the practice of residential care facility administration in Idaho. ()

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The document titled “ACHCA Code of Ethics,” published by the American College of Health Care Administrators (ACHCA) as referenced in Section 650, is herein incorporated by reference and is available from the Board’s office and on the Board web site. ()

005. -- 099. (RESERVED)

100. APPLICATIONS.

Applications will be on forms approved by the Board. No application will be considered for any action unless accompanied by the appropriate fees and until the required supporting documentation is received by the Division. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon thirty (30) days written notice, unless good cause is established to the Board. ()

101. -- 149. (RESERVED)

150. QUALIFICATIONS FOR ADMINISTRATOR LICENSE.

Each applicant for an administrator’s license must submit proof, along with their application, that said individual is at least twenty-one (21) years of age and meets all the following qualifications for the issuance of a license: ()

01. Criminal Background Check. The applicant must submit a criminal background check by an entity approved by the Board establishing that the applicant has not been convicted, pled guilty or nolo contendere or received a withheld judgment for a felony or any crime involving dishonesty or the health or safety of a person. ()

02. Education and Experience. The applicant must document one (1) of the combinations of education and experience in accordance with Section 54-4206, Idaho Code, and Subsection 400 of these rules. ()

03. Coursework. The applicant must document completion of a specialized course or program of study as set forth in Subsection 400 of these rules. ()

04. Examination. The applicant must submit proof of successful passage of a relevant examination as approved by the Board and defined in Subsection 300 of these rules. ()

151. -- 159. (RESERVED)

160. NURSING HOME ADMINISTRATOR QUALIFICATIONS FOR LICENSE.

Any applicant who holds a valid Idaho nursing home administrator license must meet the requirements provided in Section 54-4211(2), Idaho Code, and must take and pass the Board-approved residential care administrator examination. This requirement may be waived if the applicant submits evidence satisfactory to the Board that he has at least one (1) year of leadership or management experience working in a residential care facility or nursing home facility within the five (5) years preceding the application. ()

161. -- 299. (RESERVED)

300. EXAMINATIONS.

01. Examination. The Board approves the following examinations for licensure: ()

a. The Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) and an open book

examination of law and rules governing residential care administrators in Idaho. The passing score for the NAB examination is determined by NAB. An applicant for examination is required to register with NAB and pay any required examination fees directly to NAB. The passing score for the open book examination is seventy-five percent (75%). ()

- b. Other examinations as approved by the Board. ()

301. -- 399. (RESERVED)

400. EDUCATIONAL AND TRAINING REQUIREMENTS.

- 01. Approved Course.** ()

a. The Certification Program for Residential Care Facility Administrators course, administered by the Idaho Health Care Association (IHCA)/Idaho Center for Assisted Living (ICAL), are approved courses of study to qualify for licensure. ()

b. Any Certification Program for Residential Care Facility Administrators provided by a state or national Residential Care Facility Administrator organization or a nationally or regionally accredited college or university must be an approved course of study to qualify for licensure. ()

02. Approval of Other Courses. Applicants may, in lieu of completion of the Certification Program for Residential Care Facility Administrators, submit official documentation of successful completion of relevant courses. These courses must be approved by the Board before equivalency will be given. ()

401. CONTINUING EDUCATION.

01. Minimum Hours Required. Applicants for annual renewal or reinstatement are required to complete a minimum of twelve (12) hours of continuing education courses within the preceding twelve-month (12) period. Basic First Aid, Cardio-Pulmonary Resuscitation, medication assistance, or fire safety courses will not be considered for continuing education credit. ()

02. Course Approval. Courses of study relevant to residential care facility administration and sponsored or provided by the following entities or organizations are approved for continuing education credits: ()

- a. Accredited colleges or universities. ()
- b. Federal, state or local government entities. ()
- c. National or state associations. ()

d. Otherwise approved by the Board based upon documentation submitted by the licensee or course provider reviewing the nature and subject of the course and its relevancy to residential care administration, name of instructor(s) and their qualifications, date, time and location of the course and procedures for verification of attendance. ()

03. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. ()

04. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. ()

402. -- 449. (RESERVED)

450. SCOPE OF PRACTICE.

A residential care facility administrator must possess the education, training, and experience necessary to insure that appropriate services and care are provided for each facility resident within any facility under the licensee's administration. Information contained within the application together with supporting documentation maintained by the licensee is prima facie evidence of the licensee's education and experience. It is the responsibility of the individual licensee to maintain adequate documentation of education and experience appropriate to the planning, organizing, directing and control of the operation of a residential care facility. ()

451. -- 599. (RESERVED)

600. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$150
Annual Renewal	\$150
Provisional Permit	\$150
Reissuance of Lost License	\$10
Reinstatement	As provided in Section 67-2614, Idaho Code

()

601. -- 649. (RESERVED)

650. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed residential care facility administrator for each violation of Section 54-4213(1), Idaho Code. ()

02. Costs and Fees. The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. ()

03. Code of Ethics. The Board has adopted (ACHCA) Code of Ethics. Violations of the code of ethics is considered grounds for disciplinary action. ()

651. -- 999. (RESERVED)

**24.23.01 – RULES OF THE SPEECH, HEARING, AND COMMUNICATION
SERVICES LICENSURE BOARD**

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-2910, Idaho Code. ()

001. SCOPE.

These rules govern speech, hearing, and communication services in Idaho. ()

002. INCORPORATION BY REFERENCE.

The current and updated document titled “National Association of the Deaf (NAD)-Registry of Interpreters for the Deaf, Inc. (RID) Code of Professional Conduct,” copyright 2005 by the Registry of Interpreters for the Deaf, is herein adopted and incorporated by reference and is available on the RID website: <https://rid.org/ethics/code-of-professional-conduct>. ()

003. DEFINITIONS.

01. Audiology Support Personnel. Unlicensed natural persons who work under the direction and supervision of an audiologist who is licensed in accordance with Title 54, Chapter 29, Idaho Code, and is engaged in the practice of audiology. ()

02. Contact Hours. A contact hour is a measurement of the licensee's participation in an area of study germane to the practice for which the license is issued as approved by the Board. One (1) contact hour requires one (1) hour of participation in a Board approved continuing education program, excluding meals and breaks. One (1) hour equals one clock hour for purposes of obtaining continuing education credit. ()

03. Direct Client Contact. Assessment, diagnosis, evaluation, screening, treatment, report writing, family or client consultation, counseling, or any combination of these activities. ()

04. Dual Licensure. The status of a person who holds more than one (1) license under Title 54, Chapter 29, Idaho Code. ()

004. -- 099. (RESERVED)

100. LICENSURE.

01. Audiologist Licensure. ()

a. Approved Examination. Pass the audiology examination given by PRAXIS. ()

b. Approved Experience. Successfully complete a supervised academic clinical practicum as part of a doctoral program that satisfies Section 54-2912(b), Idaho Code, or supervised postgraduate experience that is substantially equivalent to such a practicum. An applicant who has insufficient supervised experience as part of the doctoral program may obtain the necessary experience under a provisional permit as provided in these rules. ()

02. Speech Language Pathologist Licensure. ()

a. Approved Examination. Pass an examination in speech-language pathology given by PRAXIS. ()

b. Approved Supervised Experience. Satisfactorily complete the supervised postgraduate experience approved by the Board as follows: ()

i. Complete a minimum of three hundred fifty (350) hours of clinical practicum under the supervision of a licensed speech language pathologist. ()

ii. Complete thirty-six (36) weeks of supervised clinical fellowship. ()

03. Speech Language Pathologist Assistant Licensure. All applicants for licensure as a speech-language pathologist assistant must comply with the following education and examination requirements: ()

a. Approved Education. An associate degree from a nationally accredited school of speech-language pathology with a curriculum approved by the Board. ()

b. Approved Examination. Pass an examination in speech-language pathology assistant offered by the American Speech-Language Hearing Association. ()

c. Supervision. A speech-language pathologist assistant must work under the supervision of a speech-language pathologist. ()

04. Hearing Instrument Specialist Licensure. ()

a. Approved Education. A high school diploma or GED. ()

b. Approved Examination. Pass the national International Hearing Instrument Studies examination and the practical examination approved by the Board. ()

05. Sign Language Interpreter Licensure. ()

a. Education. Possess a high school diploma or the equivalent. ()

b. Examination or certification. Pass written and practical or performance competency examination approved by the Board or hold a current certification approved by the Board. ()

i. Written examinations approved by the Board include but are not limited to: The Educational Interpreter Performance Assessment (EIPA), any interpreting generalist written examination developed by the Registry of Interpreters for the Deaf (RID), the Center for Assessment of Sign Language Interpreters (CASLI), or any state government. ()

ii. Practical or performance examinations approved by the Board include but are not limited to: any practical or performance general interpreting examination recognized by the Registry of Interpreters for the Deaf (RID) or the Educational Interpreter Performance Assessment (EIPA) at score 4.0 or above. The practical or performance examination must have been passed within ten (10) years before the date of original application for licensure. ()

iii. Certifications approved by the Board include, but are not limited to, those administered by: Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); Center for Assessment of Sign Language Interpreters (CASLI); Board for Evaluation of Interpreters (BEI) at basic level or above, or if certified before 2014, at intermediate level or above; Utah Interpreter Program (UIP) at professional or master level, or a Utah Certified: Deaf Interpreter (UC:DI). ()

06. Deaf Interpreters. ()

a. Letter of Endorsement. Persons who are deaf or hard-of-hearing and are not sign language interpreters may perform sign language interpreting services in the role of a deaf interpreter if they file the approved application with the Board and include one (1) written endorsement letters from sign language interpreters licensed by the Board. Deaf Interpreters must complete this process on a yearly basis. ()

b. Withdrawal of Endorsement. A sign language interpreter who has endorsed a deaf interpreter may withdraw their endorsement at any time upon delivery of written notice to the deaf interpreter and the Board. ()

07. Temporary Registration for Out-Of-State Applicants. ()

a. Registration. A person licensed or certified in good standing as a sign language interpreter in another state, territory, or the District of Columbia may practice sign language interpreting in this state without a license issued by the Board for a period of thirty (30) days within a twelve (12) month period, provided they pay the required fee and meet the requirements of this section. The Board may grant an extension or additional registrations for good cause. ()

b. Statement of Registration. Before commencing such work, the person will file with the Board on a form approved by the board a statement of registration providing the person's name, residence, sign language interpreter license or certificate of registration number, and the name, address, and phone number of the issuing authority. ()

08. Continuing Education. ()

a. Requirement. Each licensee will successfully complete, in the twelve (12) months preceding each renewal of their license, a minimum of ten (10) contact hours of continuing education directly related to the scope of their practice and sponsored by a national, state, or regional professional association or an institution of higher education. ()

i. For college or university courses that are approved by the Board for continuing education credit, one (1) semester credit hour equals fifteen (15) contact hours; one (1) quarter credit hour equals ten (10) contact hours. ()

ii. For proctoring the hearing aid dealing and fitting examination administered by the Board, a licensee may claim three (3) contact hours per exam up to a total of six (6) contact hours during each year, provided that a licensee may not claim more than nine (9) contact hours during any three (3) year period. ()

b. Documentation. Each licensee must maintain documentation verifying hours of attendance. This documentation is subject to audit and must be provided upon request. ()

101. -- 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Provisional Permits. ()

a. Scope. The Board may issue a provisional permit to allow an applicant to engage in the supervised practice of a profession regulated by Title 54, Chapter 29, Idaho Code, to allow a person to engage in the supervised practice of audiology or speech language pathology while completing either the required postgraduate experience or a comparable doctoral program in audiology. The Board may issue a permit to allow a person to engage in fitting and dealing hearing aids or sign language interpretation while pursuing passage of an examination or certification for licensure. ()

b. Supervisor. A provisional permit holder must be supervised by a licensee in good standing for the profession corresponding to the permit, except that a hearing aid dealer and fitter may be supervised by an audiologist or a hearing aid dealer and fitter. ()

c. Supervision. The supervisor is responsible for all practice of the permit holder. ()

i. Personal contact each workday to review any assignments, client contacts, and hearing aid fittings for the first sixty (60) days of practice. The nature of the supervision and contact must allow for immediate feedback and includes audio/visual, in person, or telephone contacts. ()

ii. After the first sixty (60) days of practice, personal contact as described in Subsection 200.01.c. must be made no less than once in each calendar week throughout the remaining period of the permit. ()

iii. In the event a permit holder fails the licensing examination two (2) consecutive times and is eligible to maintain a permit, the supervisor and the permit holder must reinstate contact in person each workday as set forth in Subsection 200.01.c. ()

d. Training Agreement and Reports. Training may be performed in accordance with an agreement that identifies the parties to the agreement, the applicant's scope of practice authorized, and, if necessary, any monitoring parameters. The applicant will submit the agreement to the Board. ()

i. A plan of training for hearing aid dealing and fitting or a sign language interpreter must cover all sections of the license examination(s). ()

ii. Quarterly reports must be on forms approved by the Board, attested to and signed by the permit holder and approved supervisor(s), and include, a log of clients and supervisor contact, supervisor's statement of completed training assignments by the permit holder. For a sign language interpreter, certification of attendance of any workshop or training session that the permit holder attended. For a hearing aid dealing and fitting permit holder, a copy of test results for all persons tested by the permit holder whether a sale occurred and a copy of each hearing aid order for all fittings including specifications of instruments ordered. ()

iii. Quarterly reports are due on or before April 10th, July 10th, October 10th, and January 10th for the three (3) calendar month period preceding the month due. If the permit has not been in effect for the entire quarter, the report is due for that portion of the quarter in which the permit was in effect. If quarterly reports are not received by the specified due date, are inadequate, or document inadequate progress or incompetent practice the permit may be suspended or revoked upon notice and an opportunity to be heard. ()

e. Change in Supervision. A supervisor must report termination of supervision in writing to the Board within ten (10) days. The permit holder must have a new supervisor in place before resuming practice. ()

f. Cancellation. A permit is cancelled if the holder obtains a license or fails to submit a new application within thirty (30) days of a change in supervision. ()

g. Expiration. Following the approval of a permit holder's original application, a provisional permit expires after twenty-four (24) months. Following expiration of the permit, the permit holder may apply to the Division for an extension. The Division may extend the time period for good cause that prevented the permit holder from completing the supervision within the twenty-four (24) month time period. ()

02. Hearing Evaluation. ()

a. Testing. Pre-Fitting and Sound Field Testing must be conducted in accordance with the standards set forth by the American National Standard Institute (ANSI). Verification of benefits must be conducted within 6 weeks. ()

b. Records. The licensee will maintain a record of test data for one (1) year after sale. ()

c. Exemptions. The testing requirements of this rule do not apply to consumers who cannot respond to acceptable audiological tests. ()

03. Contracts. ()

a. Contract form. Any person who practices the fitting and sale of hearing aids must enter into a written contract with the person to be supplied with the hearing aid, which is signed by the licensee and the consumer. The contract must be given to the consumer at the time of sale and must contain the following: ()

i. License number, business address, and specifications as to the make, model, and manufacture date of the hearing aid; ()

ii. Full terms of sale, including a minimum of a thirty (30) day trial period for a refund of at least seventy-five (75) percent of the monies paid. ()

iii. Serial number upon delivery; ()

iv. Be clearly marked as "used" or "reconditioned" if applicable; ()

v. Address and telephone number of the Division of Occupational and Professional Licenses; ()

vi. A disclosure that the contract is void if the hearing aid is not delivered to the consumer within thirty

(30) days of signature, and, if that occurs, the licensee will promptly refund the full purchase price. ()

b. Cancellation and Refund. The contract must grant the consumer a nonwaivable thirty (30) day right to cancel the purchase and obtain a refund. The thirty (3) day period commences from either the date the contract is signed, or the hearing aid is delivered to the consumer, whichever is later. ()

c. Dealer cancellation. If the licensee cancels the contract, the licensee must promptly refund the full purchase price. ()

04. Support Personnel: Audiology. ()

a. The supervising audiologist is responsible for training and evaluating the performance of audiology support personnel, and for approving all orders and directives. The supervising audiologist must assign tasks which are consistent with the training, education, and experience of audiology support. ()

b. The number of audiology support personnel that an audiologist may supervise at any one time must be consistent with the delivery of appropriate, quality service, and Title 54, Chapter 29, Idaho Code. ()

c. Direct supervision requires in-view real-time observation and guidance while an assigned activity is performed. This requirement can be met when the supervisor is providing supervision from a distant site using two-way video and audio transmission. The supervising audiologist will document and retain a record of all direct supervision period. ()

i. When not providing supervision, the supervising audiologist must provide direction and supervision to audiology support personnel while support personnel are providing audiology services to a patient by making themselves accessible to the support personnel by telephone, video conferencing or in person. ()

d. The supervising audiologist is responsible for maintaining a written record of completed training activity. ()

i. Training will be conducted pre-service (before tasks are assigned) and in-service (after tasks are assigned). ()

ii. Supervising audiologists should provide audiology support personnel with a written description of their roles and functions. Audiologists should provide personnel with ongoing training opportunities to ensure that audiology practices are current, and skills are maintained. ()

05. Newborn Hearing Screening Tests. ()

a. A person who is not an audiologist or audiology support personnel may conduct a newborn screening test if the test is conducted using equipment that produces a pass/fail response. A Licensed Audiologists will review the results. ()

201. -- 399. (RESERVED)

400. FEES.

1. Non-refundable. All fees are non-refundable. Fees are established in accord with Title 54, Chapter 29, Idaho Code as follows: ()

a. License, Permit, and Registration Fees.

LICENSE/PERMIT/REGISTRATION	INITIAL FEE (Not to Exceed)	ANNUAL RENEWAL FEE (Not to Exceed)
Application	\$30	

LICENSE/PERMIT/REGISTRATION	INITIAL FEE (Not to Exceed)	ANNUAL RENEWAL FEE (Not to Exceed)
Original or Endorsement	\$70	\$100
Provisional Permit or Extension	\$100	
Registration Out-of-State Licensee	\$10	
Reinstatement fee	As provided in Section 67-2614, Idaho Code.	

()

02. Examination Fees. The examination fee is that charged by the examination provider plus an administration fee of one hundred dollars (\$100) when the examination is administered by the Board. ()

401. -- 999. (RESERVED)

24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Title 54, Chapter 56, Idaho Code. ()

001. SCOPE.

These rules regulate the profession of genetic counseling in the interest of the public health, safety, and welfare. ()

002. INCORPORATION BY REFERENCE.

The document titled “National Society of Genetic Counselors Code of Ethics,” adopted January 1992 and revised December 2004, January 2006, and April 2017, is incorporated by reference into this rule and is available at the Board’s office and on the Board’s web site. ()

003. -- 249. (RESERVED)

250. FEES.

All fees are non-refundable except that, if a license fee is tendered but the Board does not issue a license, the respective license fee will be returned. Fees are established in accord with Section 54-5613, Idaho Code as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$200
Original License	\$200
Annual Renewal	\$200
Provisional License	\$200
License by Endorsement	\$200
Examination	Determined by third-party examination administrator
Reinstatement	As provided in Section 67-2614, Idaho Code

()

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.

01. General. An applicant who in any state, territory or country has had a license revoked or suspended or has been otherwise disciplined by a Board, a government agency, or any other disciplinary body, or has been found guilty, convicted, received a withheld judgment or suspended sentence for a felony or a lesser crime conviction must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. ()

02. Consideration of Factors and Evidence. The Board will consider the factors set forth in Section 67-9411, Idaho Code. ()

03. Interview. The Board may, at its discretion, grant an interview of the applicant. ()

04. Applicant Bears the Burden. The applicant will bear the burden of establishing his current suitability for licensure. ()

05. Education. An applicant must hold a master’s degree or higher in genetics from an American Board of Genetic Counseling (ABGC), American Board of Medical Genetics (ABMG), Accreditation Council for Genetic Counseling (ACGC), or National Society of Genetic Counselors (NSGC) accredited program or master’s degree or higher in a related field of study as approved by the Board. ()

06. Examination. An applicant must pass an ABGC or ABMG administered genetic counselor certification exam. The passage of the exam may have occurred prior to the effective date of these rules. ()

07. Certification. An applicant must provide proof of current certification from the ABGC or ABMG. ()

301. -- 309. (RESERVED)

310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.

The Board may grant a license to an applicant for licensure by endorsement who meets the following requirements: ()

01. General. Meets the requirements prescribed in Subsection 300.01 of these rules; and ()

02. Holds a Current License. The applicant must be the holder of a current active license in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity of another state, territory, or jurisdiction. The state, territory, or jurisdiction must have licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure must be received by the Board from the issuing agency. ()

311. REQUIREMENTS FOR PROVISIONAL LICENSE.

The Board may issue a provisional license to allow a person who has been granted active candidate status to engage in the practice of genetic counseling. The holder of a provisional license may only practice under the general supervision of a person fully licensed under this chapter or a physician licensed in this state. ()

01. General. Meets the requirements prescribed in Subsection 300.01 of these rules; and ()

02. Supervision. While the provisional licensee is providing genetic counseling services, the licensee's supervisor need not be physically present; however, the supervisor must be readily accessible to the provisional licensee by telephone or by electronic means for consultation and assistance. ()

312. INACTIVE STATUS.

01. Request for Inactive Status. Licensees requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. ()

02. Inactive License Status. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. ()

03. Reinstatement to Full Licensure from Inactive Status. An inactive licensee may reinstate to active status by submitting a completed, board-approved application and paying the appropriate fee, provide proof of ABGC certification and one (1) year of continuing education immediately preceding application. ()

313. -- 499. (RESERVED)

500. CONTINUING EDUCATION.

All licensees must comply with the following continuing education requirements: ()

01. Requirement. Beginning with the second renewal of their license, a licensee will be required to complete a minimum of two (2) Continuing Education Units (CEUs) within the preceding twelve (12) months or one (1) CEU and one (1) Professional Activity Credit (PAC) within the preceding twelve (12) months. ()

02. Documentation. Each licensee will maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. ()

a. Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and

professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. ()

b. A licensee must submit the verification documentation to the Board, if requested by the Board. If a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. ()

03. Waiver. The Board may for good cause waive the requirements of this rule. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ()

04. Carryover of Continuing Education Hours. CEUs and PACs not claimed in the current renewal year may be claimed in the next renewal year. A maximum of two (2) CEUs or one (1) PAC and one (1) CEU may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. ()

501. -- 699. (RESERVED)

700. UNPROFESSIONAL AND UNETHICAL CONDUCT.

Unprofessional and unethical conduct is conduct that does not conform to the guidelines for genetic counseling contained within the (NSGC) Code of Ethics, incorporated by reference into Section 002 of these rules and approved by the Board as the Idaho Code of Ethics. ()

701. -- 899. (RESERVED)

900. DISCIPLINE.

01. Disciplinary Action. If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 56, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee. ()

901. -- 999. (RESERVED)

24.26.01 – RULES OF THE IDAHO BOARD OF MIDWIFERY

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-5504, Idaho Code. ()

001. SCOPE.

These rules govern the licensure and regulation of the practice of midwifery in Idaho. ()

002. -- 099. (RESERVED)

100. QUALIFICATIONS FOR LICENSURE.

Applicants for licensure must submit a completed application, required application and licensing fees, and documentation, acceptable to the Board. ()

101. RENEWAL OF LICENSE.

01. Complete Practice Data. The information submitted by the licensed midwife must include complete practice data for the calendar year preceding the date of the renewal application. Such information includes: ()

- a. The number of clients to whom the licensed midwife has provided care; ()
- b. The number of deliveries, including the number of cesareans or the number of vaginal births after cesarean (VBACs); ()
- c. The average, oldest, and youngest maternal ages; ()
- d. The number of primiparae; ()
- e. All APGAR scores below five (5) at five (5) minutes; ()
- f. The number of prenatal transfers and transfers during labor, delivery and immediately following birth, including transfers of mothers, transfers of babies, reasons for transfers, or transfers of all newborns being admitted to the neonatal intensive care unit (NICU) for more than twenty four (24) hours. ()
- g. Any perinatal deaths occurring up to six weeks post-delivery, broken out by: weight, gestational age, age of the baby, and stillbirths, if any. ()
- h. Any significant neonatal or perinatal problem, not listed above, during the six (6) weeks following birth. ()

02. Current Cardiopulmonary Resuscitation Certification. A licensed midwife must certify on their renewal application that they possess a current certification in adult, infant, and child cardiopulmonary resuscitation and in neonatal resuscitation obtained through courses approved by the Board. ()

03. Continuing Education Verification. The licensed midwife at renewal must certify by signed affidavit that the annual continuing education requirements set by the Board have been met. The Board may conduct continuing education audits. ()

102. CONTINUING EDUCATION REQUIREMENT.

01. Annual Continuing Education Requirement. A licensed midwife must successfully complete a minimum of ten (10) continuing education hours per year either acceptable to North American Registry of Midwives (“NARM”) as counting towards recertification of a licensed midwife as a Certified Professional Midwife (“CPM”) or otherwise approved by the Board. Two (2) of these hours must be in peer review participation as described in Subsection 102.02. ()

02. Peer Review System. As part of the Board’s annual continuing education requirement, each licensed midwife must participate in peer review activities for a minimum of two (2) hours per year to enable licensed midwives to retrospectively present and review cases in an effort to further educate themselves about the appropriateness, quality, utilization, and ethical performance of midwifery care. ()

- a. Licensed midwives are responsible for organizing their own peer review sessions. At least three (3)

licensed midwives or CPMs must participate in a peer review session in order for the session to count towards a licensed midwife's annual two-hour peer review activity requirement. ()

- b.** Each licensed midwife must make a presentation that must include the following information: ()
 - i. Total number of clients currently in the licensed midwife's care; ()
 - ii. The number of women in the licensed midwife's practice that are postpartum; ()
 - iii. The number of births the licensed midwife has been involved with since the last peer review session; and ()
 - iv. One (1) or more specific cases arising since the licensed midwife's last peer review session involving serious complications or the transport of a mother or baby to the hospital. ()
- c.** The information presented in a peer review session is confidential. The identities of the client, other health care providers, and other persons involved in a case may not be divulged during the peer review session. ()

03. Carryover Hours. A licensed midwife may carryover a maximum of five (5) hours of continuing education to meet the next year's continuing education requirement. ()

103. -- 199. (RESERVED)

200. USE OF FORMULARY DRUGS.

01. Protocols. A licensed midwife may use the drugs described in the midwifery formulary according to the following protocol describing the indication for use, dosage, route of administration and duration of treatment:

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Oxygen	Maternal/Fetal Distress	10-12 L/min. 10 L/min.	Bag and mask Mask	Until maternal/fetal stabilization is achieved or transfer to hospital is complete
	Neonatal Resuscitation	10-12 L/min. 10 L/min.	Bag and mask Mask	Until stabilization is achieved or transfer to a hospital is complete
Oxytocin (Pitocin)	Postpartum hemorrhage only	10 Units/ml	Intramuscularly only	1-2 doses Transport to hospital required if more than two doses are administered
Lidocaine HCl 2%	Local anesthetic for use during postpartum repair of lacerations or episiotomy	Maximum 50 ml	Percutaneous infiltration only	Completion of repair
Penicillin G (Recommended)	Group B Strep Prophylaxis	5 million units initial dose, then 2.5 million units every 4 hours until birth	IV in \geq 100 ml LR, NS or D ₅ LR	Birth of baby

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Methergine (Methylergonovine)	Postpartum hemorrhage only	0.2mg/ml	Intramuscularly only 1 dose	Transport to hospital required if single dose does not stop hemorrhage
Ampicillin Sodium (Alternative)	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 4 hours until birth	IV in \geq 100 ml NS or LR	Birth of baby
Cefazolin Sodium (drug of choice for penicillin allergy with low risk for anaphylaxis)	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 8 hours	IV in \geq 100 ml LR, NS or D ₅ LR	Birth of baby
Clindamycin Phosphate (drug of choice for penicillin allergy with high risk for anaphylaxis)	Group B Strep Prophylaxis	900 mg every 8 hours	IV in \geq 100 ml NS (not LR)	Birth of baby
Epinephrine HCl 1:1000	Treatment or post-exposure prevention of severe allergic reactions	0.3 ml	Subcutaneously or intramuscularly	Every 20 minutes or until emergency medical services arrive Administer first dose then immediately request emergency services
Lactated Ringer's (LR) 5% Dextrose in Lactated Ringer's solution (D ₅ LR) 0.9% Sodium Chloride (NS) Sterile Water	To achieve maternal stabilization Reconstitution of antibiotic powder	1 - 2 liter bags First liter run in at a wide-open rate, the second liter titrated to client's condition As directed	Intravenously with \geq 18 gauge catheter As directed	Until maternal stabilization is achieved or transfer to a hospital is complete Birth of Baby
Cytotec (Misoprostol)	Postpartum hemorrhage only	800 mcg	Rectally is the preferred method Orally is allowed	1-2 doses Transport to hospital required if more than one dose is administered

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Rho(d) Immune Globulin	Prevention of Rho (d) sensitization in Rho (d) negative women	300 mcg	Intramuscularly	Single dose at any gestation for Rho (d) negative, antibody negative women within 72 hours of spontaneous bleeding or abdominal trauma. Single dose at 26-28 weeks gestation for Rho (d) negative, antibody negative women Single dose for Rho (d) negative, antibody negative women within 72 hours of delivery of Rho (d) positive infant, or infant with unknown blood type
Phytonadione	Prophylaxis for Vitamin K Deficiency Bleeding	1 mg	Intramuscularly	1 dose
0.5% Erythromycin Ophthalmic Ointment	Prophylaxis of Neonatal Ophthalmia	1 cm ribbon in each eye	Topical	1 dose

()

201. OBTAINING, STORING, AND DISPOSING OF FORMULARY DRUGS.

A licensed midwife must adhere to the requirements in Title 54 Chapter 17 Idaho Code and IDAPA 24.36.01 Rules of the Idaho State Board of Pharmacy for obtaining, storing, and disposing of formulary drugs during the practice of midwifery. ()

202. MEDICAL WASTE.

A licensed midwife must dispose of medical waste during the practice of midwifery according to state and federal law. ()

203. SCOPE AND PRACTICE STANDARDS.

A licensed midwife must adhere to the Essential Documents of the National Association of Certified Professional Midwives to the extent such scope and practice standards are consistent with the Board’s enabling law, Chapter 55, Title 54, Idaho Code when providing antepartum, intrapartum, postpartum, and newborn care. ()

01. Conditions for Which a Licensed Midwife May Not Provide Care Without Health Care Provider Involvement. A licensed midwife may not provide care for a client with a history of the disorders, diagnoses, conditions, or symptoms listed in Section 54-5505(1)(e)(ii), Idaho Code, unless such disorders, diagnoses, conditions or symptoms are being treated, monitored or managed by a licensed health care provider. In Section 54-5505(1)(e)(ii)(14), Idaho Code, “history” includes illicit drug use or addiction during the current pregnancy. ()

02. Conditions for Which a Licensed Midwife Must Facilitate Hospital Transfer. A licensed midwife must facilitate the immediate transfer of a client to a hospital for emergency care if the client has any of the disorders, diagnoses, conditions or symptoms listed in Section 54-5505(1)(e)(iv), Idaho Code. Maternal fever in labor of more than 100.4 degrees Fahrenheit, in the absence of environmental factors; suggestion of fetal jeopardy, such as frank bleeding before delivery, any abnormal bleeding (with or without abdominal pain), evidence of placental abruption, meconium with non-reassuring fetal heart tone patterns where birth is not imminent, or abnormal fetal

heart tones with non-reassuring patterns where birth is not imminent; ()

204. NEWBORN TRANSFER OF CARE OR CONSULTATION.

01. Newborn Transfer of Care. Conditions for which a licensed midwife must facilitate the immediate transfer of a newborn to a hospital for emergency care: ()

a. Respiratory distress defined as respiratory rate greater than eighty (80) or grunting, flaring, or retracting for more than one (1) hour. ()

b. Any respiratory distress following delivery with moderate to thick meconium stained fluid. ()

c. Central cyanosis or pallor for more than ten (10) minutes. ()

d. Apgar score of six (6) or less at five (5) minutes of age. ()

e. Abnormal bleeding. ()

f. Any condition requiring more than six (6) hours of continuous, immediate postpartum evaluation. ()

g. Any vesicular skin lesions. ()

h. Seizure-like activity. ()

i. Any bright green emesis. ()

j. Poor feeding effort due to lethargy or disinterest in nursing for more than two (2) hours immediately following birth. ()

02. Newborn Consultation Required. Conditions for which a licensed midwife must consult a Pediatric Provider (Neonatologist, Pediatrician, Family Practice Physician, Advanced Practice Registered Nurse, or Physician Assistant): ()

a. Temperature instability, defined as a rectal temperature less than ninety-six point eight (96.8) degrees Fahrenheit or greater than one hundred point four (100.4) degrees Fahrenheit documented two (2) times more than fifteen (15) minutes apart. ()

b. Murmur lasting more than twenty-four (24) hours immediately following birth. ()

c. Cardiac arrhythmia. ()

d. Congenital anomalies. ()

e. Birth injury. ()

f. Clinical evidence of prematurity, including but not limited to, low birth weight of less than two thousand five hundred (2,500) grams, smooth soles of feet, or immature genitalia. ()

g. Any jaundice in the first twenty-four (24) hours after birth or significant jaundice at any time. ()

h. No stool for more than twenty-four (24) hours immediately following birth. ()

i. No urine output for more than twenty-four (24) hours. ()

j. Development of persistent poor feeding effort at any time. ()

205. -- 299. (RESERVED)

300. UNPROFESSIONAL CONDUCT.

01. Standards of Conduct. If a licensed midwife or an applicant for licensure, renewal, or reinstatement has engaged in unprofessional conduct, the Board may refuse to issue, renew, or reinstate the applicant's license and may discipline the licensee. Unprofessional conduct includes, without limitation, those actions defined in Section 54-5510, Idaho Code, and any of the following: ()

- a.** Having a license suspended, revoked, or otherwise disciplined in this or any other state or jurisdiction; ()
- b.** Having been convicted of any felony, or of a lesser crime that reflects adversely on the person's fitness to be a licensed midwife; or ()
- c.** Violating any standards of conduct set forth in these rules, whether or not specifically labeled as such, and including without limitation any scope and practice standards, record-keeping requirements, notice requirements, or requirements for documenting informed consent. ()

02. Discipline. If the Board determines that a licensed midwife has engaged in unprofessional conduct, it may impose discipline against the licensed midwife that includes, without limitation, the following: ()

- a.** Require that a licensed midwife practice midwifery under the supervision of another health care provider. The Board may specify the nature and extent of the supervision and may require the licensed midwife to enter into a consultation, collaboration, proctoring, or supervisory agreement, written or otherwise, with the other health care provider; ()
- b.** Suspend or revoke a license; ()
- c.** Impose a civil fine not to exceed one thousand dollars (\$1,000) for each violation of the Board's laws and rules; and ()
- d.** Order payment of the costs and fees incurred by the Board for the investigation and prosecution of the violation of the Board's laws and rules. ()

301. -- 399. (RESERVED)

400. FEES.

Unless otherwise provided for, all fees are non-refundable.

APPLICATION	FEE (Not to Exceed)
Initial Application	\$200
Initial License	\$800 (amount will be refunded if license not issued)
Renewal	\$850 (amount will be refunded if license not renewed)
Reinstatement	\$50

()

401. -- 999. (RESERVED)

24.27.01 – RULES OF THE IDAHO STATE BOARD OF MASSAGE THERAPY

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-4007, Idaho Code. ()

001. SCOPE.

These rules regulate the profession of massage therapy. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Approved Massage Program. A massage therapy program conducted by an entity that is registered with the Idaho State Board of Education pursuant to Chapter 24, Title 33, Idaho Code, or with a comparable authority in another state, and that meets the entry-level educational requirements as set forth in Section 600 of these rules. ()

02. Clinical Work. Supervised, hands-on training in a classroom setting. ()

03. Code of Ethics. The Idaho Code of Ethics for Massage Therapy attached to these rules as Appendix A. ()

04. Standards of Practice. The Standards of Practice of Massage Therapy attached to these rules as Appendix B. ()

011. -- 199. (RESERVED)

200. APPLICATION.

01. Filing an Application. Applicants for licensure must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. ()

02. Supplemental Documents. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required under the qualifications for the license being sought. ()

201. -- 249. (RESERVED)

250. FEES.

All fees are non-refundable except that, if a license is not issued, the license fee will be refunded

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Original License	\$65
Annual Renewal	\$65
License by Endorsement	\$75
Temporary License	\$25
Provisional Permit	\$25
Reinstatement	As provided in Section 67-2614, Idaho Code
Examination	Established by Administrator

()

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.

The Board may grant a license to an applicant for licensure who completes an application as set forth in Section 200 of these rules and meets the following general, education, and examination requirements: ()

01. General. ()

a. An applicant must provide evidence of being at least eighteen (18) years of age. ()

b. An applicant must certify that he/she has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony or a crime involving moral turpitude, or if the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. ()

c. An applicant must certify that he/she has not been convicted of a crime under any municipal, state, or federal narcotic or controlled substance law, or if the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. ()

d. An applicant must certify that their license has not been subject to any disciplinary action by a regulatory entity in another state, territory or country including, but not limited to, having an application for licensure denied. If the applicant or their license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. ()

301. -- 304. (RESERVED)

305. APPROVED EXAMINATIONS.

Approved examinations are the following examinations or another nationally recognized competency examination in massage therapy that is approved by the Board. ()

01. Approved Examinations. ()

a. Massage and Bodywork Licensing Examination (MBLEx) as administered by the Federation of State Massage Therapy Boards (FSMTB); ()

b. National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) or National Certification Examination for Therapeutic Massage (NCETM) as administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), if taken before February 1, 2015. ()

c. Other nationally recognized competency examinations in massage therapy that are approved by the Board. A written request for approval must be submitted to the Board together with supporting documentation as may be requested by the Board. ()

02. Successful Passage. A passing score, or successful passage of the exam, will be determined by the entity administering the exam. ()

03. Date of Exam. The passage of the exam may have occurred prior to the effective date of these rules. ()

306. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.

An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or crime involving moral turpitude, has a conviction for any crime under any municipal, state, or federal narcotic or controlled substance law, or has been subject to discipline in another state, territory or country must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. ()

01. Consideration of Factors and Evidence. The Board considers the factors set forth in Section 67-9411, Idaho Code. ()

02. Interview. The Board may, at its discretion, grant an interview of the applicant. ()

03. Applicant Bears the Burden. The applicant bears the burden of establishing his current suitability for licensure. ()

307. -- 309. (RESERVED)

310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.

The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 and meets the following requirements: ()

01. Holds a Current License. The applicant must be the holder of a current active license or certificate in good standing in the profession, and at the level for which a license is being sought, issued by the authorized regulatory entity in another state. The state must have licensing or certification requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure or certification must be received by the Board from the issuing agency; ()

02. Has Not Been Disciplined. The applicant or his/her license must have not been voluntarily surrendered, revoked, or suspended by any regulatory entity. The Board may consider an applicant who, or whose license, has been restricted, denied, sanctioned, or otherwise disciplined. If the applicant or his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules; ()

03. Is of Good Moral Character. The applicant must not have been found guilty, convicted, received a withheld judgment, or suspended sentence for any felony or any crime involving moral turpitude. If the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules; and ()

04. Has Not Been Convicted of a Drug Offense. The applicant must not have been convicted of any crime under any municipal, state, or federal narcotic or controlled substance law. If the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. ()

311. -- 319. (RESERVED)

320. TEMPORARY LICENSE.

01. General. Any person who has submitted to the Board a complete application for licensure by examination under Section 54-4009, Idaho Code, or by endorsement under Section 54-4010, Idaho Code, together with the required fees, may apply for a temporary license to practice massage therapy while their application is being processed by the Board. ()

02. Duration. An applicant will be issued only one (1) temporary license that will be valid for a period not to exceed four (4) months or until the Board acts upon the licensure application, whichever occurs first. ()

321. -- 329. (RESERVED)

330. PROVISIONAL PERMIT.

Upon application to the Board and payment of the required fees, an applicant may be issued a provisional permit to practice massage therapy if the applicant meets all the requirements for licensure under section 54-4009, Idaho Code, except for having successfully passed a nationally recognized competency examination in massage therapy that is approved by the Board as described in Subsection 305.01. ()

01. General. A provisional permit will be issued subject to the following conditions: ()

a. The applicant must certify that the applicant will take the next scheduled examination for licensure approved by the Board, and that the applicant has not failed two (2) previous examinations for licensure; and

()

b. A licensed massage therapist certifies to the Board that the applicant will practice massage therapy only under the supervision of the licensed massage therapist while both are in the same location. ()

02. Duration and Renewal. An applicant will be issued only one (1) provisional permit that is valid for a period not to exceed six (6) months or until the applicant is issued a temporary license or the Board acts upon the massage therapist license application, whichever occurs first. A provisional permit may only be renewed once upon a showing of good cause. ()

331. -- 399. (RESERVED)

400. RENEWAL OR EXPIRATION OF LICENSE.

A license expires on the license holder's birth date. The individual must annually renew the license before the license holder's birth date. Licenses not so renewed will be immediately canceled in accordance with Section 67-2614, Idaho Code. ()

01. Renewal. A license must be renewed before it expires by submitting a complete application for renewal on forms approved by the Board together with the renewal fee. As part of a complete renewal application, the licensee will attest to completion of the required continuing education pursuant to Section 500 of these rules. False attestation of satisfaction of the continuing education requirements on a renewal application subjects the licensee to disciplinary action, including revocation. ()

02. Reinstatement. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. ()

a. Within five (5) years of cancellation, an applicant seeking reinstatement must submit to the Board evidence that the applicant has completed the required continuing education together with a complete renewal application and appropriate fee(s). ()

i. The applicant must submit evidence of completion of continuing education hours totaling the hours required at the time of cancellation and for each year the license was canceled. ()

ii. The applicant must pay a reinstatement fee as set forth in Section 250 of these rules. ()

b. After five (5) years of cancellation, the applicant will be treated as a new applicant, and application must be made on the same forms and in the same manner as an application for an original license in accordance with Section 200 of these rules. ()

401. -- 499. (RESERVED)

500. CONTINUING EDUCATION.

All licensees must comply with the following continuing education requirements: ()

01. Requirement. Beginning with the second renewal of their license, a licensee is required to complete a minimum of six (6) hours of continuing education, which includes one (1.0) hour in ethics, within the preceding twelve (12) months that meet the requirements in Sections 501, 502 and 503 of these rules. ()

a. An hour is defined as fifty (50) minutes out of each sixty (60) minute segment. ()

b. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. ()

c. The educational course setting may include a classroom, conference, seminar, on-line or a virtual classroom. ()

d. If the licensee completes two (2) or more courses having substantially the same content during any

one (1) renewal period, the licensee will only receive continuing education credit for one (1) of the courses. ()

02. Documentation. Each licensee must maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. ()

a. Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. ()

b. A licensee must submit the verification documentation to the Board, if requested by the Board. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. ()

03. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship, including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ()

04. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of six (6) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. ()

05. Exemption. A licensee is exempt from the continuing education requirements under this Section for the period between the initial issuance of the original license and the first expiration date of that license. ()

501. APPROVAL OF CONTINUING EDUCATION COURSES.

Approved continuing education courses are those courses and programs that meet the requirements of these rules, and are approved, sponsored, or provided by the following entities or organizations, or otherwise approved by the Board: ()

01. A College or University. Accredited by a nationally recognized accrediting agency as recognized by the United States Secretary of Education; ()

02. Federal, State or Local Governmental Entities; and ()

03. National and State Massage Therapy Associations. ()

04. Provider Course Approval. Other courses may be approved by the Board based upon documentation submitted by a continuing education provider. Requests for approval of courses made by the provider must be submitted on a form approved by the Board that includes: ()

a. The nature and subject of the course and its relevancy to the practice of massage therapy; ()

b. The name of instructor(s) and their qualifications; ()

c. The date, time and location of the course; ()

d. The specific agenda for the course; ()

e. The number of continuing education hours requested; ()

f. The procedures for verification of attendance; and ()

g. Other information as may be requested by the Board. ()

h. Upon review of all information requested, the Board may deny any request for a course that does not meet the requirements of Idaho law or rule. Board approval of a course will be granted for a period not to exceed five (5) years, or until the course materials or instructors are changed, whichever may occur first. ()

05. Licensee Course Approval. Other courses may be approved by the Board based upon documentation submitted by the licensee. All requests for approval must be made to the Board in writing and include the nature and subject of the course and its relevancy to the practice of massage therapy, name of instructor(s) and their qualifications, date, time and location of the course, and procedures for verification of attendance. ()

502. CONTINUING EDUCATION ACTIVITIES.
The following educational activities qualify for continuing education as set forth: ()

01. Teaching a Course For The First Time, Not to Exceed Six Hours. A report must be submitted, including the name of the course, course outline, qualifications for teaching, number of hours taught, number of participants taught, date and location of the training. ()

02. Publishing Articles or Books. The hours awarded as determined at the discretion of the Board. ()

03. Self Study. Using books, audio tapes, video tapes, DVD's, research materials, professional publications, online sources, and/or other electronic sources/methods documented by a type-written two-page report summarizing the study content. ()

503. CONTENT OF CONTINUING EDUCATION.
The content of continuing education activities and course content must be germane to the practice of massage therapy as defined in Section 54-4002, Idaho Code, and courses in ethics must also be specific to legal issues, law, standards of practice, or ethics. ()

01. Continuing Education. Content germane to the practice of massage therapy includes, but is not limited to: ()

a. Applications of massage and bodywork therapy for specific needs, conditions, or client populations. ()

b. Client assessment protocols, skills for client record keeping, strategies for interfacing with other health care providers. ()

c. Use of external agents such as water, sound, heat, cold, or topical applications of plant or mineral-based substances. ()

d. Body-centered or somatic psychology, psychophysiology, or interpersonal skills which may include communication skills, boundary functions, dual relationships, transference, counter-transference, and projection. ()

e. Standards of practice, professional ethics, or state laws. ()

f. Strategies for the marketing of massage and bodywork therapy practices. ()

g. Theory or practice of ergonomics as applied to therapists or clients. ()

h. Hygiene, methods of infectious disease control, organization and management of the treatment environment. ()

i. Body sciences, which may include anatomy, physiology, kinesiology or pathology, as they apply to massage therapy. ()

- j. Certified CPR or first aid training. ()

504. -- 599. (RESERVED)

600. EDUCATIONAL PROGRAM STANDARDS.

Approved educational programs are those programs conducted by an entity that meet the definition in Section 010 and that consist of a minimum of five hundred (500) hours of in-class supervised hours of coursework and clinical work that meets the following entry-level educational standards: ()

01. Coursework Content and Hours. Coursework must include the following content areas and minimum hours: ()

- a. Two hundred (200) hours in massage and bodywork assessment, theory, and application; ()

b. One hundred twenty-five (125) hours in body systems including anatomy, physiology, and kinesiology; ()

- c. Forty (40) hours in pathology; ()

- d. Twenty-five (25) hours in business and ethics; and ()

02. Clinical Work. A minimum of one hundred ten (110) hours must be clinical work. ()

a. Students are not permitted to render any clinical services to clients until students have completed at least twenty percent (20%) of the required hours of instruction. ()

- b.** All clinical services must be performed under the supervision of a person fully licensed. ()

601. SUPERVISION.

01. Supervision of Clinical Work. The supervising massage therapist must consult with the student, evaluate student performance and be physically present and available to render direction in person and on the premises where massage therapy is being provided. ()

02. Supervision of Fieldwork. The supervising massage therapist must be available to render direction either in person or by means of telecommunications but is not required to be physically present on the premises where massage therapy is being provided. ()

602. -- 699. (RESERVED)

700. SCOPE OF PRACTICE.

All licensees must practice in a competent manner consistent with their level of education, training, and experience. ()

701. -- 749. (RESERVED)

750. STANDARDS OF PRACTICE.

All licensees must comply with the Idaho Standards of Practice for Massage Therapy as approved by the Board and attached as Appendix B. ()

751. -- 799. (RESERVED)

800. CODE OF ETHICS.

All licensees must comply with the Code of Ethics for Massage Therapy as approved by the Board and attached to these rules as Appendix A. ()

801. -- 899. (RESERVED)

900. DISCIPLINE.

If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 40, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: ()

01. Refuse License. Refuse to issue, renew, or reinstate a license; ()

02. Revoke License. Revoke or suspend the licensee's license(s); ()

03. Restrict License. Condition, restrict, or limit the licensee's practice, license, or both; ()

04. Administrative Fine. Impose an administrative fine not to exceed one thousand dollars (\$1,000) for each violation of the Board's laws or rules; and ()

05. Licensee Costs. Order a licensee to pay the costs and fees incurred by the Board in the investigation, prosecution, or both, of the licensee for violation(s) of the Board's laws, rules, or both. ()

901. -- 999. (RESERVED)

IDAHO BOARD OF MASSAGE THERAPY CODE OF ETHICS -- APPENDIX A

Preamble: This Code of Ethics is a summary statement of the standards of conduct that define ethical practice of massage therapy. All licensees are responsible for maintaining and promoting ethical practice.

A licensee shall:

1. Conduct all business and professional activities honestly and within their scope of practice and all applicable legal and regulatory requirements.

2. Inform clients of the limitations of the licensee's practice, the limitations of massage therapy, and the contraindications for massage therapy.

3. Refer the client to other professionals or services if the treatment or service is beyond the licensee's scope of practice.

4. Not engage in any sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship. Sexual activity includes any verbal and/or nonverbal behavior for the purpose of soliciting, receiving, or giving sexual gratification.

5. Be truthful in advertising and marketing, and not misrepresent services, charges for services, credentials, training, experience or results.

6. Safeguard the confidentiality of all client information, unless disclosure is requested by the client in writing or as allowed or required by law.

7. Obtain informed and voluntary consent from clients.

8. Allow a client the right to refuse, modify or terminate treatment regardless of prior consent given.

9. Provide draping and treatment in a way that ensures the safety, comfort, and privacy of the client.

10. Possess the right to refuse to treat any person or part of the body.

11. Refuse any gifts or benefits that are intended to influence a referral, decision, treatment or the

professional relationship between the licensee and the client.

12. Report to the Idaho Board of Massage Therapy any unlicensed practice of massage therapy, and any evidence indicating unethical, incompetent or illegal acts committed by a licensee or individual.
13. Do no harm to the physical, mental, and emotional well being of clients.

**IDAHO BOARD OF MASSAGE THERAPY STANDARDS OF PRACTICE --
APPENDIX B**

Standard I: Professionalism

In his/her professional role the licensee shall:

1. Cooperate with any Board investigation regarding any alleged violation of the Massage Therapy law or rules.
2. Use professional verbal, nonverbal, and written communications.
3. Provide an environment that is safe for the client and which meets all legal requirements for health and safety.
4. Use standard precautions to ensure professional hygienic practices and maintain a level of personal hygiene appropriate for practitioners in the therapeutic setting.
5. Wear clothing that is clean and professional.
6. Obtain voluntary and informed consent from the client, or written informed consent from client's legal guardian, prior to initiating the treatment plan.
7. If applicable, conduct an accurate needs assessment, develop a plan of care with the client, and update the plan as needed.
8. Use appropriate draping to protect the client's physical and emotional privacy. When clients remain dressed for seated massage or sports massage, draping is not required.
9. Not practice under the influence of alcohol, drugs, or any illegal substances, with the exception of legal or prescribed dosage of medication which does not impair the licensee.

Standard II: Legal and Ethical Requirements

In his/her professional role the licensee shall:

1. Maintain accurate and complete client billing and records. Client Records includes notes written by a licensee and kept in a separate client file that indicates the date of the session, areas of complaint as stated by client, and observations made and actions taken by the licensee.
2. Report within thirty (30) days to the Idaho Board of Massage Therapy any felony or misdemeanor criminal convictions of the licensee.

Standard III: Confidentiality

In his/her professional role the licensee shall:

1. Protect the confidentiality of the client's identity in conversations, all advertisements, and any and all other matters unless disclosure of identifiable information is requested or permitted by the client in writing or is required or allowed by law.
2. Protect the interests of clients who are minors or clients who are unable to give voluntary and informed consent by securing written informed consent from an appropriate third party or guardian.
3. Solicit only information that is relevant or reasonable to the professional relationship.
4. Maintain the client files for a minimum period of seven (7) years.
5. Store and dispose of client files in a secure manner.

Standard IV: Business Practices

In his/her professional role the licensee shall:

1. Not use sensational, sexual, or provocative language and/or pictures to advertise or promote their business.
2. Display/discuss a schedule of fees in advance of the session that is clearly understood by the client or potential client.
3. Make financial arrangements in advance that are clearly understood by, and safeguard the best interests of, the client or consumer.

Standard V: Roles and Boundaries

In his/her professional role the licensee shall:

1. Not participate in client relationships that could impair professional judgment or result in exploitation of the client.

Standard VI: Prevention of Sexual Misconduct

In his/her professional role the licensee shall:

1. Not engage in any behavior that sexualizes, or appears to sexualize, the client/licensee relationship.
2. Not participate in a sexual relationship or sexual conduct with the client, whether consensual or otherwise, from the beginning of the client/licensee relationship and for a minimum of twelve (12) months after the termination of the client/licensee relationship.
3. In the event that the client initiates sexual behavior, clarify the purpose of the therapeutic session and, if such conduct does not cease, terminate or refuse the session.

24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authority of Chapter 9, Title 54, Idaho Code. ()

001. SCOPE.

The rules constitute the minimum requirements for licensure and regulation of dentists, dental hygienists, and dental therapists. ()

002. INCORPORATION BY REFERENCE.

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: ()

01. Professional Standards. ()

a. AAOMS, Office Anesthesia Evaluation Manual, 8th Edition, 2012. ()

b. CDC, Guidelines for Infection Control in Dental Health-Care Settings, 2003. ()

c. ADA, Principles of Ethics, Code of Professional Conduct and Advisory Opinions, January 2009. ()

d. ADHA Hygienists' Association, Standards for Clinical Dental Hygiene Practice, 2016. ()

003. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

01. ACLS. Advanced Cardiovascular Life Support or Pediatric Advanced Life Support. ()

02. ADA. American Dental Association. ()

03. ADHA. American Dental Hygienists Association. ()

04. AAOMS. American Association of Oral and Maxillofacial Surgeons. ()

05. BLS. Basic Life Support. ()

06. CDC. Centers for Disease Control and Prevention. ()

07. CODA. Commission on Dental Accreditation. ()

08. Deep Sedation. A drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. ()

09. Enteral. Administration of a drug in which the agent is absorbed through the gastrointestinal tract or mucosa. ()

10. EPA. United States Environmental Protection Agency. ()

11. General Anesthesia. A drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. ()

12. Inhalation. Administration of a gaseous or volatile agent introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface. ()

13. Local Anesthesia. The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. ()

14. Minimal Sedation. A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation. ()

15. Moderate Sedation. A drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. ()

16. Monitor or Monitoring. The direct clinical observation of a patient during the administration of sedation by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures. ()

17. NBDE. National Board Dental Examination. ()

18. NBDHE. National Board Dental Hygiene Examination. ()

19. Operator. The supervising dentist or another person who is authorized by these rules to induce and administer sedation. ()

20. Parenteral. Administration of a drug which bypasses the gastrointestinal tract [i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, intraosseous]. ()

21. Sedation. The administration of minimal, moderate, and deep sedation and general anesthesia. ()

011. APPLICATION AND LICENSE FEES.

Application fees are not refunded. A license shall not be issued or renewed unless fees have been paid. License fees are prorated from date of initial licensure to the next successive license renewal date. The application fees and license fees are as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	\$300	Active Status: \$375 Inactive Status: \$160
Dental Hygienist	\$150	Active Status: \$175 Inactive Status: \$85
Dental Therapist	\$200	Active Status: \$250 Inactive Status: \$125
Sedation Permit	\$300	\$300

()

012. EXAMINATIONS FOR LICENSURE.

01. Written Examination. Successful completion of the NBDE may be required of all applicants for a license to practice dentistry or a dental specialty. Successful completion of the NBDHE may be required of all applicants for a license to practice dental hygiene. Dental therapists must successfully complete a board-approved written examination. Any other written examination will be specified by the Board. ()

02. Clinical Examination. All applicants for a license to practice general dentistry, dental hygiene or

dental therapy are required to pass a Board-approved clinical examination upon such subjects as specified by the Board. Applicants for dental hygiene and dental therapy licensure must pass a clinical local anesthesia examination. Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination. ()

013. REQUIREMENTS FOR LICENSURE.

Applicants for licensure to practice dentistry must furnish proof of graduation from a school of dentistry accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental hygiene must furnish proof of graduation from a dental hygiene program accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental therapy must furnish proof of graduation from a dental therapy program accredited by CODA at the time of applicant's graduation. ()

014. REQUIREMENT FOR BLS.

Applicants for initial licensure will provide proof of current BLS certification. Practicing licensees must maintain current BLS certification. ()

015. CONTINUING EDUCATION REQUIREMENTS.

A licensee renewing an active status license shall report 30 oral health/health-related continuing education hour credits to the Board of verifiable CE or volunteer practice. ()

016. – 020. (RESERVED)

021. PROVISIONAL LICENSURE.

This type of license may be granted at the Board's discretion to applicants with active practice within the previous (2) years, current license in good standing in another state, and evidence of not failing an exam given by the Board. ()

022. VOLUNTEER DENTAL HYGIENE SERVICES.

A person holding an unrestricted active status dental hygiene license issued by the Board may provide dental hygiene services in an extended access oral health care setting without being issued an extended access license endorsement. The dental hygiene services performed are limited to oral health screening and patient assessment, preventive and oral health education, preparation and review of health history, non-surgical periodontal treatment, oral prophylaxis, the application of caries preventive agents including fluoride, the application of pit and fissure sealants with recommendation that the patient will be examined by a dentist; ()

023. DENTAL HYGIENISTS – LICENSE ENDORSEMENTS.

The Board may grant license endorsements to qualified dental hygienists as follows: ()

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

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 endorsement; ()

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; ()

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 setting; and ()

d. 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 setting in this state may be granted an extended access endorsement without being required to satisfy the experience requirements specified in this rule. ()

02. Extended Access Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding an extended access restorative endorsement may perform specified restorative functions under the direct supervision of a dentist in an extended access oral health care setting. Permissible restorative functions under this endorsement are 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 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; and ()

b. 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 setting. ()

03. Renewal. Upon payment of the appropriate license fee and completion of required CE credits specified for a license endorsement, a person meeting all other requirements for renewal of a license to practice dental hygiene is also entitled to renewal of a license endorsement for the effective period of the license. An endorsement immediately expires and is 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 CE. ()

024. LICENSURE OF DENTAL SPECIALISTS.

01. Requirements for Specialty Licensure. Each applicant for specialty licensure must have graduated from a CODA accredited dental school and hold a license to practice general dentistry in the state of Idaho or another state. The Board may grant licensure in specialty areas of dentistry for which a dentist has completed a CODA accredited postdoctoral advanced dental education program of at least two full-time academic years. ()

02. Examination. Specialty licensure in those specialties recognized may be granted solely at the discretion of the Board. An examination covering the applicant's chosen field may be required and, if so, will be conducted by the Board or a testing agent. Applicants who have met the requirements for licensure as a specialist may be required to pass an examination as follows: ()

a. Applicants who have passed a general licensure examination acceptable to the Board may be granted specialty licensure by Board approval. ()

b. Applicants who have passed a general licensure examination not acceptable to the Board may be required to pass a specialty examination. ()

c. Applicants who are certified by the American Board of that particular specialty as of the date of application for specialty licensure may be granted specialty licensure by Board approval. ()

03. Limitation of Practice. No dentist may announce or otherwise hold himself out to the public as a specialist unless he has first complied with the requirements established by the Board for such specialty and has been issued a specialty license authorizing him to do so. Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. ()

025. SPECIALTY ADVERTISING.

The specialty advertising rules are intended to allow the public to be informed about dental specialties and to require appropriate disclosures to avoid misperceptions on the part of the public. ()

01. Recognized Specialty License. An advertisement may not state that a licensee is a specialist unless the licensee has been granted a license in that specialty area of dental practice by the Board. Use of words or terms in advertisements such as "Specialist," "Board Certified," "Diplomate," "Practice Limited To," and "Limited To Specialty Of" shall be prima facie evidence that the licensee is holding himself out to the public as a licensed

specialist in a specialty area of dental practice. ()

02. Disclaimer. A licensee who has not been granted a specialty license by the Board may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is “licensed as a general dentist” or that the specialty services “will be provided by a general dentist.” Any disclaimer in a written advertisement must be in the same font style and size as that in the listing of the specialty area. ()

03. Unrecognized Specialty. A licensee may not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ()

026. PATIENT RECORDS.

A record must be maintained for each person receiving dental services, regardless of whether any fee is charged. Records must be in the form of an acronym such as “PARQ” (Procedure, Alternatives, Risks and Questions) or “SOAP” (Subjective Objective Assessment Plan) or their equivalent. Patient records must be maintained for no less than seven (7) years from the date of last entry unless: the patient requests the records be transferred to another dentist who will maintain the records, the dentist gives the records to the patient, or the dentist transfers the dentist's practice to another dentist who will maintain the records. ()

027. – 030. (RESERVED)

031. INFECTION CONTROL.

In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the CDC. Additionally, licensees and dental assistants must comply with the following requirements: ()

01. Gloves, Masks, and Eyewear. Disposable gloves must be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene must be performed prior to gloving. Masks and protective eyewear or chin-length shields must be worn when spattering of blood or other body fluids is likely. ()

02. Instrument Sterilization. Between each patient use, instruments and other equipment that come in contact with body fluids must be sterilized. ()

03. Sterilizing Devices Testing. Heat sterilizing devices must be tested for proper function by means of a biological monitoring system that indicates micro-organisms kill. Devices must be tested each calendar week in which scheduled patients are treated. Testing results must be retained by the licensee for the current calendar year and the two (2) preceding calendar years. ()

04. Non-Critical Surfaces. Environmental surfaces that are contaminated by blood or saliva must be disinfected with an EPA registered hospital disinfectant. ()

05. Clinical Contact Surfaces. Impervious backed paper, aluminum foil, or plastic wrap should be used to cover surfaces that may be contaminated by blood or saliva. The cover must be replaced between patients. If barriers are not used, surfaces must be cleaned and disinfected between patients by using an EPA registered hospital disinfectant. ()

06. Disposal. All contaminated wastes and sharps must be disposed of according to any governmental requirements. ()

032. EMERGENCY MEDICATIONS OR DRUGS.

The following emergency medications or drugs are required in all sites where anesthetic agents of any kind are administered: anti-anaphylactic agent, antihistaminic, aspirin, bronchodilator, coronary artery vasodilator, and glucose. ()

033. DENTAL HYGIENISTS – PRACTICE.

Dental hygienists are hereby authorized to perform the activities specified below: ()

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

a. Oral prophylaxis (removal of stains and plaque biofilm and if present, supragingival and/or subgingival calculus); ()

b. Medical history assessments and intra-oral and extra-oral assessments (including charting of the oral cavity and surrounding structures, taking case histories and periodontal assessment); ()

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

d. Root planing; ()

e. Non-surgical periodontal therapy; ()

f. Closed subgingival curettage; ()

g. Administration of local anesthesia; ()

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

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

j. Provide patient education and instruction in oral health education and preventive techniques; ()

k. Placement of antibiotic treated materials pursuant to dentist authorization; ()

l. Administration and monitoring of nitrous oxide/oxygen; and ()

m. All duties which may be performed by a dental assistant. ()

02. Direct Supervision. A dental hygienist may perform specified duties under direct supervision as follows: ()

a. Use of a laser restricted to gingival curettage and bleaching. ()

034. DENTAL HYGIENISTS – PROHIBITED PRACTICE.

01. Diagnosis and Treatment. Definitive diagnosis and dental treatment planning. ()

02. Operative Preparation. The operative preparation of teeth for the placement of restorative materials. ()

03. Intraoral Placement or Carving. The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative endorsement. ()

04. Anesthesia. Administration of any general anesthesia or moderate sedation. ()

05. Final Placement. Final placement of any fixed or removable appliances. ()

- 06. **Final Removal.** Final removal of any fixed appliance. ()
- 07. **Cutting Procedures.** Cutting procedures utilized in the preparation of the coronal or root portion of the tooth, or cutting procedures involving the supportive structures of the tooth. ()
- 08. **Root Canal.** Placement of the final root canal filling. ()
- 09. **Occlusal Equilibration Procedures.** Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable. ()
- 10. **Other Final Placement.** Final placement of prefabricated or cast restorations or crowns. ()

035. DENTAL THERAPISTS – PRACTICE.

Dental therapists are authorized to perform activities specified by the supervising dentist who practices in the same practice setting in conformity with a written collaborative practice agreement at the supervision levels set forth in the agreement. ()

036. DENTAL THERAPISTS – PROHIBITED PRACTICE.

- 01. **Sedation.** Administration of minimal, moderate or deep sedation or general anesthesia except as otherwise allowed by these rules; ()
- 02. **Cutting Procedures.** Cutting procedures involving the supportive structures of the tooth including both the soft and hard tissues. ()
- 03. **Periodontal Therapy.** Periodontal scaling and root planing, including the removal of subgingival calculus. ()
- 04. **All Extractions with Exception.** All extractions except: ()
 - a. Under direct supervision. ()
 - i. Non-surgical extractions. ()
 - b. Under general supervision or as specified in Section 035. ()
 - i. Removal of periodontally diseased teeth with class III mobility. ()
 - ii. Removal of coronal remnants of deciduous teeth. ()
- 05. **Root Canal Therapy.** ()
- 06. **All Fixed and Removable Prosthodontics** (except stainless steel crowns). ()
- 07. **Orthodontics.** ()

037. DENTAL ASSISTANTS – PRACTICE.

Dental assistants are authorized to perform dental services for which they are trained unless prohibited by these rules. Dental assistants must be directly supervised by a dentist when performing intraoral procedures except when providing palliative care as directed by the supervising dentist. ()

- 01. **Prohibited Duties.** A dental assistant is prohibited from performing the following duties: ()
 - a. The intraoral placement or carving of permanent restorative materials. ()
 - b. Any irreversible procedure. ()

- c. The administration of any sedation or local injectable anesthetic. ()
- d. Removal of calculus. ()
- e. Use of an air polisher. ()
- f. Any intra-oral procedure using a high-speed handpiece, except for the removal of orthodontic cement or resin. ()
- g. Any dental hygiene prohibited duty. ()

038. – 040. (RESERVED)

041. LOCAL ANESTHESIA.

Dental offices in which local anesthesia is administered to patients shall, at a minimum, have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. ()

042. NITROUS OXIDE/OXYGEN.

Persons licensed to practice and dental assistants trained in accordance with these rules may administer nitrous oxide/oxygen to patients. ()

01. Patient Safety. A dentist must evaluate the patient to ensure the patient is an appropriate candidate for nitrous oxide/oxygen; ensure that any patient under nitrous oxide/oxygen is continually monitored; and ensure that a second person is in the practice setting who can immediately respond to any request from the person administering the nitrous oxide/oxygen. ()

02. Required Facilities and Equipment. Dental offices where nitrous oxide/oxygen is administered to patients must have the following: a fail-safe nitrous oxide delivery system that is maintained in working order; a scavenging system; and a positive-pressure oxygen delivery system suitable for the patient being treated. ()

03. Personnel. For nitrous oxide/oxygen administration, personnel shall include an operator and an assistant currently certified in BLS. ()

043. MINIMAL SEDATION.

Persons licensed to practice dentistry may administer minimal sedation to patients of sixteen (16) years of age or older. When the intent is minimal sedation, the appropriate dosing of a single enteral drug is no more than the maximum FDA-recommended dose for unmonitored home use. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office. ()

01. Patient Safety. The administration of minimal sedation is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of moderate sedation, general anesthesia, or deep sedation. A dentist must qualify for and obtain a permit from the Board to be authorized to sedate patients to the level of moderate sedation, general anesthesia, or deep sedation. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation, except as described in Section 043 of these rules. Notwithstanding any other provision in these rules, a dentist must initiate and regulate the administration of nitrous oxide/oxygen when used in combination with minimal sedation. ()

02. Personnel. At least one (1) additional person currently certified in BLS must be present in addition to the dentist. ()

044. MODERATE SEDATION, GENERAL ANESTHESIA AND DEEP SEDATION.

Dentists licensed in the state of Idaho cannot administer moderate sedation, general anesthesia, or deep sedation in

the practice of dentistry unless they have obtained a permit from the Board. A moderate sedation permit may be either enteral or parenteral. A dentist may not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. A moderate enteral sedation permit authorizes dentists to administer sedation by either enteral or combination inhalation-enteral routes of administration. A moderate parenteral, general anesthesia, or deep sedation permit authorizes a dentist to administer sedation by any route of administration. To qualify for a moderate, general anesthesia, or deep sedation permit, a dentist must provide proof of the following: ()

01. Training Requirements. For Moderate Sedation Permits, completion of training in the administration of moderate sedation to a level consistent with requirements established by the Board within the five (5) year period immediately prior to the date of application. For General Anesthesia and Deep Sedation Permits, completion of an advanced education program accredited by CODA that affords comprehensive training necessary to administer and manage deep sedation or general anesthesia within the five (5) year period immediately preceding the date of application. The five (5) year requirement is not applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. Qualifying training courses must be sponsored by or affiliated with a dental school accredited by CODA, or be approved by the Board. ()

02. ACLS. Verification of current certification in ACLS or PALS, whichever is appropriate for the patient being sedated. ()

03. Office Inspection. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, general anesthesia, or deep sedation and providing the equipment, drugs and protocol for patient rescue. Evaluators appointed by the Board will inspect the adequacy of the facility and competence of the sedation team prior to issuance of a moderate, general anesthesia, or deep sedation permit and at intervals not to exceed five (5) years. For general anesthesia and deep sedation, the Board adopts the standards incorporated by reference in these rules, as set forth by the AAOMS in their office anesthesia evaluation manual. ()

a. Facility, Equipment and Drug Requirements. The following facilities, equipment and drugs must be available for immediate use during the sedation and recovery phase: ()

i. An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two (2) individuals to freely move about the patient; ()

ii. An operating table or chair that permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support; ()

iii. A lighting system that permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure; ()

iv. Suction equipment that permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure; ()

v. An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system; ()

vi. A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room ()

vii. A sphygmomanometer, pulse oximeter, oral and nasopharyngeal airways, supraglottic airway devices, and automated external defibrillator (AED); and ()

viii. Emergency drugs including, but not limited to, pharmacologic antagonists appropriate to the drugs used, bronchodilators, and antihistamines. ()

ix. Additional emergency equipment and drugs required for moderate parenteral sedation permits include precordial/pretracheal stethoscope or end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. ()

x. Additional emergency equipment and drugs required for general anesthesia and deep sedation permits include precordial/pretracheal stethoscope and end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. ()

b. Personnel ()

i. For moderate sedation, the minimum number of personnel is two (2) including: the operator and one (1) additional individual currently certified in BLS. ()

ii. For general anesthesia or deep sedation, the minimum number of personnel is three (3) including: the operator and two (2) additional individuals currently certified in BLS. When the same individual administering the general anesthesia or deep sedation is performing the dental procedure one (1) of the additional individuals must be designated for patient monitoring. ()

iii. Auxiliary personnel must have documented training in BLS, will have specific assignments, and shall have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. ()

c. Pre-sedation Requirements. Before inducing moderate sedation, general anesthesia, or deep sedation a dentist must: ()

i. Evaluate the patient's medical history and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation, general anesthesia, or deep sedation; ()

ii. Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; ()

iii. Obtain written informed consent from the patient or patient's guardian for the sedation; and ()

iv. Maintain a sedation record and enter the individual patient's sedation into a case/drug log. ()

d. Patient Monitoring. Patients must be monitored as follows: ()

i. For moderate sedation the patient must be continuously monitored using pulse oximetry. For general anesthesia or deep sedation, the patient must be continuously monitored using pulse oximetry and end-tidal carbon dioxide monitors. ()

ii. The patient's blood pressure, heart rate, and respiration must be recorded every five (5) minutes during the sedation and then continued every fifteen (15) minutes until the patient meets the requirements for discharge. These recordings must be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons must be documented in the patient's record. ()

iii. During the recovery phase, the patient shall be monitored by an individual trained to monitor patients recovering from sedation; ()

iv. A dentist will not release a patient who has undergone sedation except to the care of a responsible third party; ()

v. The dentist will assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met: vital signs are stable, patient is alert and oriented, and the patient can ambulate with minimal assistance; and ()

vi. A discharge entry will be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged. ()

e. Sedation of Other Patients. The permit holder must not initiate sedation on another patient until the previous patient is in a stable monitored condition and in the recovery phase following discontinuation of their sedation. ()

045. SEDATION PERMIT RENEWAL.

01. Permit Renewal. Before the expiration date of a permit, the board will provide notice of renewal to the licensee. Failure to timely submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) continuing education credit hours in sedation which may include training in medical/office emergencies will be required to renew a permit. In addition to the continuing education credit hours, a dentist must: ()

a. For a moderate enteral sedation permit, maintain current certification in BLS or ACLS. ()

b. For a moderate parenteral, general anesthesia, or deep sedation permit, maintain current certification in ACLS. ()

02. Reinstatement. A dentist may apply for reinstatement of a canceled or surrendered permit issued by the Board within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a sedation permit must satisfy the facility and personnel requirements and verify they have obtained an average of five (5) continuing education credit hours in sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement will be assessed. ()

046. SUSPENSION, REVOCATION OR RESTRICTION OF SEDATION PERMIT.

The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a sedation permit issued pursuant to Section 044 of these rules. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. ()

047. DETERMINATION OF DEGREE OF SEDATION BY THE BOARD.

In any matter under review or in any proceeding being conducted in which the Board must determine the degree of central nervous system depression, the Board may base its findings or conclusions on, among other matters, the type, and dosages, and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status. ()

048. USE OF OTHER ANESTHESIA PERSONNEL.

A dentist who does not hold a sedation permit may perform dental procedures in a dental office on a patient who receives sedation induced by an anesthesiologist, a certified registered nurse anesthetist, or another dentist with a sedation permit as follows: ()

01. Facility, Equipment, Drugs, and Personnel Requirements. The dentist will have the same facility, equipment, drugs, and personnel available during the procedure and during recovery as required of a dentist who has a permit for the level of sedation being provided. ()

02. Patient's Condition Monitored Until Discharge. The qualified sedation provider who induces sedation will monitor the patient's condition until the patient is discharged and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of sedation being induced. The sedation record must be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures. ()

03. Use of Services of a Qualified Sedation Provider. A dentist who intends to use the services of a qualified sedation provider must notify the Board in writing of his intent. Such notification need only be submitted once every licensing period. ()

04. Advertising. A dentist who intends to use the services of a qualified sedation provider may advertise the service provided so long as each such advertisement contains a prominent disclaimer that the service "will be provided by a qualified sedation provider." ()

049. INCIDENT REPORTING.

Dentists must report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient to whom sedation was administered. ()

050. – 055. (RESERVED)

056. UNPROFESSIONAL CONDUCT.

A licensee shall not engage in unprofessional conduct in the course of his practice. 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: ()

01. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. ()

02. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed individual as defined in Title 54, Chapter 9, Idaho Code. ()

03. Unlawful Practice. Aiding or abetting licensed persons to practice unlawfully. ()

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: ()

a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; ()

b. The division is made in proportion to the services performed and responsibility assumed by each dentist or party. ()

05. Prescription Drugs. Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs 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 prescription drugs. ()

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. ()

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. ()

- 08. Altering Records.** Alter a patient's record with intent to deceive. ()
- 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 CDC guidelines as incorporated by reference in these rules. ()
- 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. ()
- 11. Use of Intoxicants.** Practicing while under the influence of an intoxicant or controlled substance where the same impairs the licensee's ability to practice with reasonable and ordinary care. ()
- 12. Mental or Physical Condition.** The inability to practice with reasonable skill and safety to patients by reason of age, illness, or as a result of any mental or physical condition. ()
- 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. ()
- 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. ()
- 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. ()
- 16. Unauthorized Treatment.** Performing professional services that have not been authorized by the patient or his legal representative. ()
- 17. Supervision.** Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. ()
- 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 or dental hygiene. ()
- 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. ()
- 20. Misrepresentation.** Willful misrepresentation of the benefits or effectiveness of dental services. ()
- 21. Disclosure.** Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, the name and professional designation of the provider rendering treatment, and disclosure of reasonably anticipated fees relative to the treatment proposed. ()
- 22. Sexual Misconduct.** Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. ()
- 23. Patient Management.** Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. ()
- 24. Compliance with Dentist Professional Standards.** Failure by a dentist to comply with professional standards applicable to the practice of dentistry, as incorporated by reference in this chapter. ()

25. Compliance with Dental Hygienist Professional Standards. Failure by a dental hygienist to comply with professional standards applicable to the practice of dental hygiene, as incorporated by reference in this chapter. ()

26. Failure to Provide Records to a Patient or Patient's Legal Guardian. Refusal or failure to provide a patient or patient's legal guardian with records within five (5) business days. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. ()

27. 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, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. ()

28. Advertising. Advertise in a way that is false, deceptive, misleading or not readily subject to verification. ()

057. – 999. (RESERVED)

**24.33.01 – RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE
MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO**

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Sections 6-1002, 54-1806(2), 54-1806(4), 54-1806(11), 54-1806A, 54-1807, 54-1812, 54-1813, 54-1814 and 54-1841, Idaho Code. ()

001. SCOPE.

The rules govern the licensure to practice medicine and osteopathic medicine in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Acceptable International School of Medicine. An international medical school located outside the United States or Canada that meets the standards for medical educational facilities set forth in Subsection 051.02 and is accredited by the ECFMG. ()

02. Medical Practice Act. Title 54, Chapter 18, Idaho Code. ()

011. ABBREVIATIONS.

01. ACGME. Accreditation Council for Graduate Medical Education. ()

02. AOA. American Osteopathic Association. ()

03. COCA. Commission on Osteopathic College Accreditation. ()

04. ECFMG. Educational Commission for Foreign Medical Graduates. ()

05. FAIMER. Foundation for Advancement of International Medical Education. ()

06. FSMB. Federation of State Medical Boards. ()

07. LCME. Liaison Committee on Medical Education. ()

08. USMLE. United States Medical Licensing Exam. ()

09. WFME. World Federation for Medical Education. ()

012. -- 049. (RESERVED)

050. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 24.33.03, and on Board approved forms. ()

01. Additional Circumstances. The Board may require further inquiry when in its judgment the need is apparent as outlined in Board policy. ()

02. Special Purpose Examination. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the FSMB, a post licensure assessment conducted by the FSMB, or an evaluation by an independent agency accepted by the Board to evaluate physician competence. ()

03. Board Determinations. Where the Board deems necessary, it may limit, condition, or restrict a newly issued license based on the Board's determination and the recommendation of the assessment or evaluation. ()

04. Postgraduate Training Program. Successful completion of one year of a medical residency program constitutes successful completion of a postgraduate training program acceptable to the Board.

051. LICENSURE FOR GRADUATES OF INTERNATIONAL MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.

01. International Medical Graduate. In addition to meeting the requirements of Section 050, graduates of international medical schools located outside of the United States and Canada must submit to the Board: ()

a. Original certificate from the ECFMG or original documentation that the applicant has passed the examination either administered or recognized by the ECFMG and passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed the USMLE; ()

b. Original documentation directly from the international medical school that establishes to the satisfaction of the Board that the international medical school meets the standards for medical educational facilities set forth in Subsection 051.02; ()

c. A transcript from the international medical school showing successful completion of all the courses taken and grades received and original documentation of successful completion of all clinical coursework; and ()

d. Original documentation of successful completion of two (2) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada or its successor organization, provided however, a resident who is attending an Idaho based residency program may be licensed after successful completion of one (1) years of progressive post graduate training, if the following conditions are met: ()

i. Written approval of the residency program director; ()

ii. Signed written contract with the Idaho residency program to complete the entire residency program; ()

iii. Remained in good standing at the Idaho-based residency program; ()

iv. Notified the Board within thirty (30) days if there is a change in circumstances or affiliation with the program; and ()

v. Received a MD or DO degree from an approved school that is eligible for Idaho licensure after graduation. ()

02. International Medical School Requirements. An international medical school must be listed in the World Directory of Medical Schools, a joint venture of WFME and FAIMER. Graduates of schools not listed in WFME or FAIMER must submit to the Board original documentation of three (3) of the four (4) requirements listed below: ()

a. A valid ECFMG Certificate. ()

b. Successful completion of three (3) years of progressive post graduate training at one (1) training program accredited for internship, residency or fellowship training in an ACGME or AOA or Royal College of Physicians and Surgeons of Canada or its successor organization's approved program. ()

c. Current board certification by a specialty board approved by the American Board of Medical Specialties or the AOA. ()

d. Evidence of five (5) years of unrestricted practice as a licensee of any United States or Canadian jurisdiction. ()

052. -- 078. (RESERVED)

079. CONTINUING MEDICAL EDUCATION (CME) REQUIRED.

01. Renewal. Each person licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall complete no less than forty (40) hours of practice relevant, Category 1, CME every two (2) years. ()

02. Verification of Compliance. Licensees will, at license renewal, provide an attestation to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. ()

03. Alternate Compliance. The Board may accept certification or recertification by a member of the American Board of Medical Specialties, the AOA, or the Royal College of Physicians and Surgeons of Canada or its successor organization in lieu of compliance with continuing education requirements during the cycle in which the certification or recertification is granted. The Board may also grant an exemption for full time participation in a residency or fellowship training at a professionally accredited institution. ()

04. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any person whom the Board determines has failed to comply with the continuing education requirements of this chapter. ()

080. PHYSICIAN PANELIST FOR PRELITIGATION CONSIDERATION OF MEDICAL MALPRACTICE CLAIMS.

01. Eligibility. A physician licensed to practice medicine or osteopathic medicine in Idaho must be available to serve in any two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman, as a physician panelist for prelitigation consideration of a medical malpractice claim. ()

02. Excusing Physicians from Serving. A physician panelist so selected must serve unless he had served on a prelitigation panel during any previous two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman or for good cause shown, is excused by the panel chairman. To show good cause for relief from serving, the selected physician panelist must present an affidavit to the panel chairman which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The panel chairman has the sole authority to excuse a selected physician from serving on a prelitigation panel. ()

03. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any physician whom the Board determines has failed to serve as a physician panelist for the prelitigation consideration of a medical malpractice claim. ()

081. -- 099. (RESERVED)

100. FEES -- TABLE.

01. Fees -- Table. Nonrefundable fees are as follows:

Fees – Table (Non-Refundable)		
Licensure Fee	-	Not more than \$600
Temporary License	-	Not more than \$300
Reinstatement License Fee plus total of renewal fees not paid by applicant	-	Not more than \$300
Inactive License Renewal Fee	-	Not more than \$100
Renewal of License to Practice Medicine Fee	-	Not more than \$300
Duplicate Wallet License	-	Not more than \$20
Duplicate Wall Certificate	-	Not more than \$50

Fees – Table (Non-Refundable)		
Volunteer License Application Fee	-	\$0
Volunteer License Renewal Fee	-	\$0

()

02. Administrative Fees for Services. Administrative fees for services shall be billed on the basis of time and cost. ()

101. -- 150. (RESERVED)

151. DEFINITIONS RELATING TO SUPERVISING AND DIRECTING PHYSICIANS.

01. Athletic Trainer. A person who has met the qualifications for licensure as set forth in Title 54, Chapter 39, Idaho Code, is licensed under that chapter, and carries out the practice of athletic training under the direction of a designated Idaho licensed physician, registered with the Board. ()

02. Directing Physician. A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board. ()

03. Medical Personnel. An individual who provides cosmetic treatments using prescriptive medical/cosmetic devices and products that are exclusively non-incisive or non-ablative under the direction and supervision of a supervising physician registered with the Board, pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Board. ()

04. Supervising Physician of Interns or Residents. Any person approved by and registered with the Board who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, who signs the application for registration of an intern or resident, and who is responsible for the direction and supervision of their activities. ()

05. Supervising Physician of Medical Personnel. An Idaho licensed physician who is registered with the Board pursuant to this chapter, who supervises and has full responsibility for cosmetic treatments using prescriptive medical/cosmetic devices and products provided by medical personnel. ()

152. – 160. (RESERVED)

161. DUTIES OF DIRECTING PHYSICIANS.

01. Responsibilities. The directing physician accepts full responsibility for the acts and athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer, and for the supervision of such acts which include, but are not limited to: ()

a. An on-site visit at least semiannually to personally observe the quality of athletic training services provided; and ()

b. Recording of a periodic review of a representative sample of the records, including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. ()

02. Scope of Practice. The directing physician must ensure the scope of practice of the athletic trainer, as set forth in IDAPA 24.33.05, and Section 54-3903, Idaho Code, will be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. ()

03. Directing Responsibility. The responsibilities and duties of a directing physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician without prior notification and Board approval. ()

04. Available Supervision. The directing physician will oversee the activities of the athletic trainer and must be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer will be outlined in an athletic training service plan or protocol, as set forth in IDAPA 24.33.05. ()

05. Disclosure. It is the responsibility of each directing physician to ensure that each athlete who receives athletic training services is aware of the fact that said person is not a licensed physician. ()

162. DUTIES OF COLLABORATING PHYSICIANS.

01. Responsibilities. A collaborating physician is responsible for complying with the requirements set forth in Title 54, Chapter 18 and IDAPA 24.33.02 when collaborating and consulting in the medical services provided by any physician assistant or graduate physician assistant either through a collaborative practice agreement or through the facility bylaws or procedures of any facility with credentialing and privileging systems. ()

163. DUTIES OF SUPERVISING PHYSICIANS OF INTERNS AND RESIDENTS.

01. Responsibilities. The supervising physician is responsible for the direction and supervision of the medical acts and patient services provided by an intern or resident. The direction and supervision of such activities include, but are not limited to: ()

a. Synchronous direct communication at least monthly with intern or resident to ensure the quality of care provided; ()

b. Recording of a periodic review of a representative sample of medical records to evaluate the medical services that are provided; and ()

c. Regularly scheduled conferences between the supervising physician and the intern or resident. ()

02. Available Supervision. The supervising physician will oversee the activities of the intern or resident, and must always be available either in person or by telephone to supervise, direct and counsel the intern or resident. ()

03. Disclosure. It is the responsibility of each supervising physician to ensure that each patient who receives the services of an intern or resident is notified of the fact that said person is not a licensed physician. ()

164. SUPERVISING PHYSICIANS OF MEDICAL PERSONNEL.

The “practice of medicine” as defined in Section 54-1803(1), Idaho Code, includes the performance of cosmetic treatments using prescriptive medical/cosmetic devices and products which penetrate and alter human tissue. Such cosmetic treatments can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation, and hyperpigmentation and, therefore, can only be performed as set forth herein. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board. ()

01. Definitions. ()

a. Ablative. Ablative is the separation, eradication, removal, or destruction of human tissue. ()

b. Incisive. Incisive is the power and quality of cutting of human tissue. ()

c. Cosmetic Treatment. An aesthetic treatment prescribed by a physician for a patient that uses

prescriptive medical/cosmetic devices and/or products to penetrate or alter human tissue. ()

d. Prescriptive Medical/Cosmetic Device. A federal food and drug administration approved prescriptive device that uses waveform energy including, but not limited to, intense pulsed light or lasers, to cosmetically alter human tissue. ()

e. Prescriptive Medical/Cosmetic Product. A federal food and drug administration approved prescriptive product whose primary intended use of the product is achieved through chemical action and cosmetically alters human tissue including, but not limited to, filler substances such as collagen or fat; lipo transfer; muscle immobilizers or sclerosing agents. ()

02. Duties and Responsibilities of Supervising Physicians. The supervising physician accepts full responsibility for cosmetic treatments provided by medical personnel and for the supervision of such treatments. The supervising physician must be trained in the safety and use of prescriptive medical/cosmetic devices and products. ()

a. Patient Record. The supervising physician must document an adequate legible patient record of his evaluation, assessment and plan for the patient prior to the initial cosmetic treatment. ()

b. Supervisory Responsibility. A supervising physician of medical personnel may not supervise more than three (3) such medical personnel contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such medical personnel contemporaneously if necessary to provide adequate cosmetic treatments and upon prior petition documenting adequate safeguards to protect the public health and safety. ()

c. Available Supervision. The supervising physician will be on-site or immediately available to respond promptly to any questions or problems that may occur while a cosmetic treatment is being performed by medical personnel. Such supervision includes, but is not limited to: ()

i. Periodic review of the medical records to evaluate the prescribed cosmetic treatments that are provided by such medical personnel including any adverse outcomes or changes in the treatment protocol; and ()

ii. Regularly scheduled conferences between the supervising physician and such medical personnel. ()

d. Scope of Cosmetic Treatments. Cosmetic treatments can only be performed by a physician or by medical personnel under the supervision of a physician. Medical personnel providing cosmetic treatments are limited to using prescriptive medical/cosmetic devices and products that are exclusively non-incisive and non-ablative. The supervising physician will ensure cosmetic treatments provided by medical personnel are limited to and consistent with the scope of practice of the supervising physician. The supervising physician will ensure that, with respect to each procedure performed, the medical personnel possess the proper training in cutaneous medicine, the indications for the prescribed treatment, and the pre- and post-procedure care involved. ()

e. Verification Training. The supervising physician will verify the training of medical personnel upon the board-approved Medical Personnel Supervising Physician Registration form. The Medical Personnel Supervising Physician Registration Form will be maintained on file at each practice location and at the address of record of the supervising physician. ()

f. Disclosure. It is the responsibility of each supervising physician to ensure that every patient receiving a cosmetic treatment is advised of the education and training of the medical personnel rendering the treatment and that such medical personnel are not licensed physicians. ()

g. Patient Complaints. The supervising physician will report to the Board of Medicine all patient complaints received against medical personnel that relate to the quality and nature of cosmetic treatments rendered. ()

h. Duties and Responsibilities Nontransferable. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician or person. ()

165. -- 241. (RESERVED)

242. DEFINITIONS RELATED TO INTERNS AND RESIDENTS.

01. Acceptable Training Program. A medical training program or course of medical study that has been approved by the LCME, Council on Medical Education or COCA of the AOA. ()

02. Acceptable Post Graduate Training Program. A post graduate medical training program or course of medical study that has been approved by the ACGME or AOA. ()

243. RESIDENT AND INTERN REGISTRATION.

01. Registration Certificate. Upon approval of the registration application, the Board may issue a registration certificate that sets forth the period during which the registrant may engage in activities that may involve the practice of medicine. Each registration will be issued for a period of not less than one (1) year and will set forth its expiration date on the face of the certificate. Each registration will identify the supervising physician. Each registrant will notify the Board in writing of any change of the supervising physician or the program or course of study fourteen (14) days prior to any such change. If the Board deems the intern or resident qualified, and if the course study requires, the Board may additionally certify on the registration certificate that the intern or resident is qualified to write prescriptions for Class III through Class V scheduled medications. ()

02. Termination of Registration. The registration of an intern or resident may be terminated, suspended, or made conditional by the Board on the grounds set forth in Section 54-1814, Idaho Code, and under the procedures set forth in Section 54-1806A, Idaho Code. ()

03. Annual Renewal of Registration. Each registration must be renewed annually prior to its expiration date. Any registration not renewed by its expiration date will be canceled. ()

04. Notification of Change. Each registrant must notify the Board in writing of any adverse action or termination, whatever the outcome, from any post graduate training program and any name changes within fourteen (14) days of such event. ()

05. Disclosure. It is the responsibility of each registrant to ensure that every patient is aware of the fact that such intern and resident is currently enrolled in a post graduate training program and under the supervision of a licensed physician. ()

244. FEES - TABLE.

Nonrefundable fees are as follows:

Fees – Table	
Resident and Intern Registration Fee	- Not more than \$25
Registration Annual Renewal Fee	- Not more than \$25

()

245. -- 999. (RESERVED)

24.33.02 – RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-1806, Idaho Code. ()

001. SCOPE.

These rules govern the practice of physician assistants and graduate physician assistants. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Approved Program. A course of study for the education and training of physician assistants that is accredited by the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or predecessor agency or equivalent agency recognized by the Board as recommended by the Committee. ()

011. -- 019. (RESERVED)

020. REQUIREMENTS FOR LICENSURE.

Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 24.33.03, and on Board-approved forms. ()

021. -- 027. (RESERVED)

028. SCOPE OF PRACTICE.

01. Scope. The scope of practice of physician assistants and graduate physician assistants includes only those duties and responsibilities identified in a collaborative practice agreement or the facility bylaws or procedures of any facility with credentialing and privileging systems. ()

02. Collaborative Practice Agreement. A collaborative practice agreement will comply with Title 54, Chapter 18, Idaho Code and will contain the following elements: ()

a. The parties to the agreement; ()

b. The authorized scope of practice for each licensed physician assistant or graduate physician assistant; ()

c. A requirement that the physician assistant or graduate physician assistant must collaborate with, consult with, or refer to the collaborating physician or another appropriate physician as indicated by: the condition of the patient; the education, experience and competence of the physician assistant or graduate physician assistant; and the community standard of care; and ()

d. If necessary, any monitoring parameters. ()

03. Advertise. No physician assistant or graduate physician assistant may advertise or represent himself either directly or indirectly, as a physician. ()

04. Emergency or Disaster Care. A collaborative practice agreement is not necessary for a licensed physician assistant or graduate physician assistant to render medical services to an ill or injured person at the scene of an emergency or disaster (not to be defined as an emergency situation which occurs in the place of one's employment) and while continuing to care for such person. ()

029. CONTINUING EDUCATION REQUIREMENTS.

Requirements for Renewal. Prior to renewal of each license as set forth by the expiration date on the face of the certificate, physician assistants shall attest to maintenance of certification by the National Commission on Certification of Physician Assistants or similar certifying agency approved by the Board, which certification requires a minimum of one hundred (100) hours of continuing medical education over a two-year (2) period. ()

030. -- 035. (RESERVED)

036. GRADUATE PHYSICIAN ASSISTANT.

01. Licensure Prior to Certification Examination -- Board Consideration. Any person who has graduated from an approved physician assistant training program and meets all Idaho requirements, including achieving a college baccalaureate degree, but has not yet taken and passed the certification examination, may be considered by the Board for licensure as a graduate physician assistant for six (6) months when an application for licensure as a graduate physician assistant has been submitted to the Board on forms supplied by the Board and payment of the prescribed fee, provided: ()

a. The applicant will submit to the Board, within ten (10) business days of receipt, a copy of acknowledgment of sitting for the national certification examination. The applicant will submit to the Board, within ten (10) business days of receipt, a copy of the national certification examination results. ()

b. After the graduate physician assistant has passed the certification examination, the Board will receive verification of national certification directly from the certifying entity. Once the verification is received by the Board, the graduate physician assistant's license will be converted to a permanent license and he may apply for prescribing authority. ()

c. The applicant who has failed the certification examination one (1) time, may petition the Board for a one-time extension of his graduate physician assistant license for an additional six (6) months. ()

d. If the graduate physician assistant fails to pass the certifying examination on two (2) separate occasions, the graduate physician assistant's license will automatically be canceled upon receipt of the second failing certification examination score. ()

e. The graduate physician assistant applicant will agree to execute an authorization for the release of information, attached to his application as Exhibit A, authorizing the Board or its designated agents, having information relevant to the application, including but not limited to the status of the certification examination, to release such information, as necessary, to his supervising physician. ()

02. Licensure Prior to College Baccalaureate Degree -- Board Consideration. Licensure as a graduate physician assistant may also be considered upon application made to the Board on forms supplied by the Board and payment of the prescribed fee when all application requirements have been met as set forth in Section 020 of these rules, except receipt of documentation of a college baccalaureate degree, provided: ()

a. A college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board shall be completed within five (5) years of initial licensure in Idaho; ()

03. No Prescribing Authority. Graduate physician assistants shall not be entitled to issue any written or oral prescriptions unless granted an exemption by the Board. Application for an exemption must be in writing and accompany documentation of a minimum of five (5) years of recent practice as a physician assistant in another state. ()

037. -- 050. (RESERVED)

051. FEES - TABLE.

Nonrefundable fees are as follows:

Fees – Table (Non-Refundable)	
Licensure Fee - Physician Assistant & Graduate Physician Assistant	- Not more than \$250
Annual License Renewal Fee	- Not more than \$150
Reinstatement Fee	- \$50 plus past renewal fees
Reinstatement Fee for Graduate Physician Assistant	- Not more than \$100
Inactive License Fee	- Not more than \$150

Fees – Table (Non-Refundable)	
Annual Renewal of Inactive License Fee	- Not more than \$100
Inactive Conversion Fee	- Not more than \$150

()

052. -- 999. (RESERVED)

24.33.04 – RULES FOR THE LICENSURE OF NATUROPATHIC MEDICAL DOCTORS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-5105(2), Idaho Code. ()

001. SCOPE.

These rules govern the licensure, scope of practice, and discipline of the Naturopathic Medical Doctors in Idaho. ()

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Council on Naturopathic Medical Education (CNME). The accrediting organization that is recognized by the United States Department of Education as the accrediting agency for education programs that prepare naturopathic medical doctors. ()

02. North American Board of Naturopathic Examiners (NABNE). The independent, nonprofit organization that qualifies applicants to take the Naturopathic Physicians Licensing Exam and submits those results to the regulatory authority. ()

03. Naturopathic Physicians Licensing Exam (NPLEX). The board examination for naturopathic medical doctors. ()

04. Naturopathic Medical Doctor. A person who meets the definition in Section 54-5101(5), Idaho Code. Licensed naturopathic physician, physician of naturopathic medicine, naturopathic medical doctor and NMD are interchangeable terms. ()

05. Primary Care. Comprehensive first contact and/or continuing care for persons with any sign, symptom, or health concern not limited by problem of origin, organ system, or diagnosis. It includes health promotion, disease prevention, health maintenance, counseling, patient education, diagnosis and treatment of acute and chronic illness. It includes collaborating with other health professionals and utilizing consultation or referral as appropriate. ()

011. – 020. (RESERVED)

021. APPLICATION FOR LICENSURE.

01. Application. Each applicant for licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the nonrefundable application fee. ()

02. Licensing Examinations. Each applicant must provide certification of passing the following four (4) NPLEX exams: ()

a. Part I Biomedical Science; ()

b. Part II Core Clinical Science; ()

c. Part II Clinical Elective Minor Surgery; and ()

d. Part II Clinical Elective Pharmacology. ()

022. AUTHORITY TO PRESCRIBE, DISPENSE, ADMINISTER, AND ORDER.

Naturopathic medical doctors are allowed to prescribe, dispense, administer, and order the following: ()

01. Laboratory and Diagnostic Procedures. Naturopathic medical doctors licensed under this chapter may perform and order physical examinations, laboratory tests, imaging, and other diagnostic tests consistent with primary care. ()

a. All examinations, laboratory, and imaging tests not consistent with primary care must be referred to an appropriately licensed health care professional for treatment and interpretation. ()

b. Any test result or lesion suspicious of malignancy must be referred to the appropriate physician

licensed pursuant to Chapter 18, Title 54 Idaho Code. ()

02 Naturopathic Formulary. The formulary for naturopathic medical doctors licensed under this chapter consists of non-controlled legend medications (excluding testosterone) deemed appropriate for the primary health care of patients within the scope of practice and training of each naturopathic medical doctor. Prescribing pursuant to the Naturopathic Formulary shall be according to the standard of health care provided by other qualified naturopathic medical doctors in the same community or similar communities, taking into account their training, experience and the degree of expertise to which they hold themselves out to the public. ()

03. Formulary Exclusions. The naturopathic formulary does not include: ()

a. Scheduled, controlled drugs, except for testosterone used in physiologic doses with regular lab assessment for hormone replacement therapy, gender dysphoria, or hypogonadism; ()

b. General anesthetics; ()

c. Blood derivatives except for platelet rich plasma; or ()

d. Systemic antineoplastic agents, except for the following antineoplastic agents used orally or topically for non-cancer purposes: ()

i. Fluorouracil (5FU); ()

ii. Anastrozole; and ()

iii. Letrozole. ()

023. – 031. (RESERVED)

032. GROUNDS FOR DISCIPLINE OR DENIAL OF A LICENSE.

In addition to statutory grounds for discipline set forth in Section 54-5109, Idaho Code, every person licensed as a naturopathic medical doctor is subject to discipline by the Board under the following grounds: ()

01. Ability to Practice. Demonstrating a manifest incapacity to carry out the functions of the licensee’s ability to practice naturopathic medicine or deemed unfit by the Board to practice naturopathic medicine; ()

02. Controlled Substance or Alcohol Abuse. Using any controlled substance or alcohol in a manner which has or may have a direct and adverse bearing on the licensee’s ability to practice naturopathic medicine with reasonable skill and safety; ()

03. Education or Experience. Misrepresenting educational or experience attainments; ()

04. Medical Records. Failing to maintain adequate naturopathic medical records. Adequate naturopathic medical records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; ()

05. Untrained Practice. Practicing in an area of naturopathic medicine for which the licensee is not trained; ()

06. Sexual Misconduct. Committing any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient or related to the licensee's practice of naturopathic medicine; ()

a. Consent of the patient shall not be a defense. ()

b. Subsection 032.06 does not apply to sexual contact between a naturopathic medical doctor and the naturopathic medical doctor’s spouse or a person in a domestic relationship who is also a patient. ()

c. A former patient includes a patient for whom the naturopathic medical doctor has provided naturopathic medical services within the last twelve (12) months. Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the naturopathic medical doctor uses or exploits the trust, knowledge, emotions, or influence derived from the prior professional relationship with the patient. ()

07. Failure to Report. Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; ()

08. Interfering with or Influencing Disciplinary Outcome. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient, Board or naturopathic medical board, Board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation or other legal action; ()

09. Failure to Obey Laws and Rules. Failing to obey federal and local laws and rules governing the practice of naturopathic medicine. ()

033. CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS.

01. Renewal. Every two (2) years, a total of forty-eight (48) hours (twenty (20) of which is pharmacology) of Board-approved CME is required as part of the naturopathic medical doctor’s license renewal. ()

02. Verification of Compliance. Licensees must, at license renewal, provide a signed statement to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as it deems necessary to verify compliance. ()

034. – 040. (RESERVED)

041. FEES.

Nonrefundable fees are shown in the following table:

Fees – Table (Non-Refundable)	
Licensure Fee	Not more than \$600
Annual License Renewal Fee	Not more than \$300
Reinstatement Fee	Not more than \$200
Inactive License Renewal Fee	Not more than \$100
Duplicate Wallet License Fee	Not more than \$20
Duplicate Wall Certificate Fee	Not more than \$50

()

042. – 999. (RESERVED)

24.33.05 – RULES FOR THE LICENSURE OF ATHLETIC TRAINERS TO PRACTICE IN IDAHO

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 54-3907 and 54-3913(2), Idaho Code. ()

001. SCOPE.

These rules govern the practice of athletic training in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Actively Engaged. A person who is employed in Idaho on a remuneration basis by an educational or health care institution, professional, amateur, or recreational sports club, or other bona fide athletic organization and is involved in athletic training as a responsibility of his employment. ()

02. Association. The Idaho Athletic Trainers' Association. ()

03. Athletic Training Service Plan or Protocol. A written document, made upon a form provided by the Board, mutually agreed upon, signed and dated by the athletic trainer and directing physician that defines the athletic training services to be provided by the athletic trainer. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 39, Idaho Code, and to safeguard the public. The Board of Chiropractic Physicians may review those athletic training service plans or protocols or other documents that define the responsibilities of the athletic trainer for those athletic trainers whose directing physicians are chiropractic physicians. ()

011. SCOPE OF PRACTICE.

01. Referral by Directing Physician. An athletic injury not incurred in association with an educational institution, professional, amateur, or recreational sports club or organization must be referred by a directing physician, but only after such directing physician has first evaluated the athlete. An athletic trainer treating or evaluating an athlete with an athletic injury incurred in association with an amateur or recreational sports club or organization will especially consider the need for a directing physician to subsequently evaluate the athlete and refer for further athletic training services. ()

02. Limitations of Scope of Practice. The scope of practice of the athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician. ()

03. Identification. The athletic trainer will at all times when on duty identify himself as an athletic trainer. ()

012. ATHLETIC TRAINING SERVICE PLAN OR PROTOCOL.

Each licensed athletic trainer providing athletic training services will create, upon a form provided by the Board, an athletic training service plan or protocol with his directing physician. This athletic training service plan or protocol must be reviewed and updated on an annual basis. Each licensed athletic trainer must notify the Board within thirty (30) days of any change in the status of his directing physician. This plan or protocol will not be sent to the Board, but must be maintained on file at each location in which the athletic trainer is practicing. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter, Title 54, Chapter 39, Idaho Code, and to safeguard the public. This plan or protocol will be made immediately available to the Board upon request. This plan or protocol will be made immediately available to the Board of Chiropractic Physicians upon request for those athletic trainers whose directing physicians are chiropractic physicians. This plan or protocol will include: ()

01. Listing of Services and Activities. A listing of the athletic training services to be provided and specific activities to be performed by the athletic trainer. ()

02. Locations and Facilities. The specific locations and facilities in which the athletic trainer will function; and ()

03. Methods to be Used. The methods to be used to ensure responsible direction and control of the

activities of the athletic trainer, which will provide for the: ()

- a. Recording of an on-site visit by the directing physician at least semiannually or every semester; ()
- b. Availability of the directing physician to the athletic trainer in person or by telephone and procedures for providing direction for the athletic trainer in emergency situations; and ()
- c. Procedures for addressing situations outside the scope of practice of the athletic trainer. ()

013. -- 019. (RESERVED)

020. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

Requirements for licensure and renewal are found in Title 54, Chapter 39, Idaho Code, IDAPA 24.33.03, and on Board-approved forms. ()

021. -- 029. (RESERVED)

030. APPLICATION FOR LICENSURE.

01. Application for Provisional Licensure. ()

a. The Board, based upon the recommendation of the Board of Athletic Trainers, may issue provisional licensure to applicants who have successfully completed a bachelor's or advanced degree from an accredited four (4) year college or university, and met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and who have met all the other requirements set forth by Section 020 of these rules but who have not yet passed the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. ()

b. Each applicant for provisional licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and include an affidavit signed by an Idaho licensed athletic trainer affirming and attesting to supervise and be responsible for the athletic training services of the provisionally licensed athletic trainer and to review and countersign all records and documentation of services performed by the provisionally licensed athletic trainer. ()

ii. Supervision. A provisionally licensed graduate athletic trainer must be in direct association with his directing physician and Idaho licensed athletic trainer who will supervise and be available to render direction in person and on the premises where the athletic training services are being provided. The directing physician and the supervising athletic trainer is responsible for the athletic training services provided by the provisionally licensed graduate athletic trainer. The extent of communication between the directing physician and supervising athletic trainer and the provisionally licensed athletic trainer is determined by the competency of the provisionally licensed athletic trainer and the practice setting and the type of athletic training services being rendered. ()

c. Scope of Practice. The scope of practice of the provisionally licensed athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, is limited to and consistent with the scope of practice of his directing physician and supervising athletic trainer and conform with the established athletic training service plan or protocol. ()

d. Expiration of Provisional License. All provisional licenses for athletic trainers will expire upon meeting the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and meeting all the other requirements set forth by Section 020 of these rules, including passing the certification examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. ()

031. -- 051. (RESERVED)

052. DENIAL OR REFUSAL TO RENEW LICENSURE OR SUSPENSION OR REVOCATION OF LICENSURE.

01. Application or Renewal Denial. A new or renewal application for licensure may be denied by the Board and shall be considered a contested case. Every person licensed pursuant to Title 54, Chapter 39, Idaho Code and these rules is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-3911, Idaho Code, and the Idaho Administrative Procedure Act. ()

02. Petitions for Reconsideration of Denial. All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. ()

053. -- 060. (RESERVED)

061. FEES -- TABLE.
Nonrefundable fees are as follows:

Fees – Table (Non-Refundable)	
Athletic Trainer Licensure Fee	- Not more than \$240
Athletic Trainer Annual Renewal Fee	- Not more than \$160
Directing Physician Registration Fee	- Not more than \$50
Annual Renewal of Directing Physician Registration Fee	- Not more than \$25
Alternate Directing Physician Registration/Renewal Fee	- \$0
Provisional Licensure Fee	- Not more than \$80
Annual Renewal of Provisional License Fee	- Not more than \$40
Inactive License Renewal Fee	- Not more than \$80
Reinstatement Fee	- Not more than \$50 plus unpaid renewal fees

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062. -- 999. (RESERVED)

**24.33.06 – RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND
PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO**

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Sections 54-4305, 54-4310, and 54-4311, Idaho Code. ()

001. SCOPE.

The rules govern the practice of respiratory care and polysomnography related to respiratory care. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board of Registered Polysomnographic Technologists. A nationally recognized private testing, examining and credentialing body for the polysomnography related respiratory care profession. ()

02. Comprehensive Registry Exam. The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). ()

03. Written Registry and Clinical Simulation Examinations. The certification examinations administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). ()

011. -- 030. (RESERVED)

031. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

Requirements for licensure and renewal are found in Title 54, Chapter 43, Idaho Code, IDAPA 24.33.03, and on Board-approved forms. ()

01. Application for Respiratory Care and Polysomnography Related Respiratory Care Practitioner. ()

a. The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4308 and 54-4307(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. ()

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

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

032. CONTINUING EDUCATION.

01. Evidence of Completion. Prior to renewal, reinstatement or reapplication, each applicant shall submit evidence of successfully completing no less than twelve (12) hours per year of approved respiratory therapy related continuing education. Continuing education activities include but are not limited to: attending or presenting at conferences, seminars or inservice programs; or formal course work in respiratory therapy related subjects. ()

02. Polysomnographer Continuing Education. Prior to renewal, reinstatement or reapplication, each applicant shall submit evidence of successfully completing no less than twelve (12) hours per year of approved polysomnographic-related respiratory care continuing education. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Subsection 032.02 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. ()

033. PROVISIONAL LICENSE OR PERMIT.

01. Provisional Licensure or Permit by Examination. A provisional license or permit may be issued

until notification of exam results to an applicant following graduation from an accredited or approved respiratory care or polysomnography-related respiratory care educational program as set forth in Sections 54-4303, 54-4306, 54-4307, 54-4308, 54-4309, Idaho Code, if: the applicant otherwise meets the license or permit requirements set forth in Sections 54-4307(2) & (4) or 54-4308, Idaho Code; and the applicant has either applied to take or has taken the requisite Board-approved national examination(s) and is awaiting results. Provisional licenses and permits issued to examination candidates are issued for a period not to exceed six (6) months and are nonrenewable. ()

02. Unsuccessful Examination Candidates. An applicant who fails to pass the requisite Board-approved national examination(s) during the six (6) month timeframe is not eligible for further temporary licensure or permitting. ()

034. SUPERVISION OF RESPIRATORY CARE.

The practice or provision of respiratory care or polysomnography services by persons holding a student, consulting, or training exemption or a provisional license or permit shall be under the supervision of a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the person being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the person being supervised shall be determined by the competency of the person, the treatment setting, and the diagnostic category of the client. ()

035. -- 045. (RESERVED)

046. FEES -- TABLE.

01. Fees -- Table. Nonrefundable fees for Respiratory Care Practitioners are as follows:

Fees – Table (Non-Refundable)	
Respiratory Care Practitioner Initial Licensure Fee	- Not more than \$180
Respiratory Care Practitioner Reinstatement Fee	- \$50 plus unpaid renewal fees
Annual Renewal Fee for Inactive License	- Not more than \$100
Inactive Conversion Fee	- Not more than \$100
Annual Renewal Fee	- Not more than \$140
Provisional License Fee	- Not more than \$90

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02. Fees – Table. Nonrefundable Permit Fees for Polysomnography Related Respiratory Care Practitioners.

Fees – Table (Non-Refundable)	
Initial Permit Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$180
Reinstatement Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- \$50 plus unpaid renewal fees
Annual Renewal Fee – Registered Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$140
Provisional Permit Fee – Registered Polysomnographic Technologist	- Not more than \$90
Annual Renewal Fee for Inactive License—Polysomnographic Technologist and Polysomnographic Technician	- Not more than \$100

Fees – Table (Non-Refundable)	
Inactive Conversion Fee -	Not more than \$100 plus unpaid active licensure fees for the time inactive

()

03. Fees - Table. Nonrefundable Dual Licensure/Permit Fees for Practitioners of Respiratory and Polysomnography Related Respiratory Care. ()

a. Initial Licensure/Permit Fee. A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.

Fees – Table (Non-Refundable)	
Dual Licensure/Permit Fee -	Not more than \$180
A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.	
Reinstatement Fee -	\$50 plus unpaid renewal fees
Annual Renewal Fee -	Not more than \$140
Renewal is required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially were not obtained at the same time.	

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047. -- 999. (RESERVED)

24.33.07 – RULES FOR THE LICENSURE OF DIETITIANS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-3505(2), Idaho Code. ()

001. SCOPE.

These rules govern the practice of dietetics in Idaho. ()

002. -- 019. (RESERVED)

020. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

Requirements for licensure and renewal are found in Title 54, Chapter 35, Idaho Code, IDAPA 24.33.03, and on Board-approved forms. ()

021. PROVISIONAL LICENSURE.

01. Provisional License. The Board may issue a provisional license to a person who has successfully completed the academic requirements of an education program in dietetics approved by the licensure board and has successfully completed a dietetic internship or preprofessional practice program, coordinated program or such other equivalent experience as may be approved by the board and who has met all the other requirements set forth by Section 020 of this rule but who has not yet passed the examination conducted by the Commission on Dietetic Registration. ()

02. Provisional License Dietitian/Monitor Affidavit. The provisionally licensed dietitian must obtain an affidavit signed by an Idaho licensed dietitian affirming and attesting that they will be responsible for the activities of the provisionally licensed dietitian and will review and countersign all patient documentation signed by the provisionally licensed dietitian. The supervising monitor need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the monitor and the provisionally licensed dietitian will be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients. ()

03. Provisional Licensure Expiration. Provisional licenses will become full active licenses upon the date of receipt of a copy of registration by the Commission on Dietetic Registration. All provisional licenses will expire on the last day of the current renewal cycle. ()

022. -- 031. (RESERVED)

032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.

01. Disciplinary Authority. A new or renewal application may be denied or a license may be suspended or revoked by the Board, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to disciplinary actions or probationary conditions pursuant to the procedures and powers established by and set forth in Section 54-3505, Idaho Code, and the Idaho Administrative Procedure Act. ()

033. -- 040. (RESERVED)

041. FEES -- TABLE.

Nonrefundable fees are as follows:

Fees – Table (Non-Refundable)	
Initial Licensure Fee	- Not more than \$150
Annual Renewal Fee	- Not more than \$100
Reinstatement Fee	- \$50 plus unpaid renewal fees
Inactive Conversion Fee	- Not more than \$50

()

042. -- 999. (RESERVED)

24.34.01 – RULES OF THE IDAHO BOARD OF NURSING

000. LEGAL AUTHORITY.

This chapter is adopted in accordance with Section 54-1404(13), Idaho Code. ()

001. SCOPE.

These rules govern the standards of nursing practice, licensure, educational programs and discipline in Idaho. ()

002. DEFINITIONS.

01. Accreditation. The official authorization or status granted by a recognized accrediting entity or agency other than a state board of nursing. ()

02. Advanced Practice Registered Nurse. Advanced practice registered nurses, when functioning within the recognized scope of practice, assume primary responsibility for the care of their patients in diverse settings. This practice incorporates the use of professional judgment in the assessment and management of wellness and conditions appropriate to the advanced practice registered nurse's role, population focus and area of specialization. ()

03. Approval. The process by which the Board evaluates and grants official recognition to education programs that meet standards established by the Board. ()

04. Assistance With Medication. 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. ()

05. 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. ()

06. Certified Nurse-Midwife. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse-midwifery program, and has current certification as a nurse-midwife from a national organization recognized by the Board. In addition to the core standards, the advanced practice registered nurse in the role of certified nurse midwife provides the full range of primary health care services to women throughout the lifespan, including gynecologic care, family planning services, preconception care, prenatal and postpartum care, childbirth, care of the newborn and reproductive health care treatment of the male partners of female clients. ()

07. Certified Nurse Practitioner. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse practitioner program and has current certification as a nurse practitioner from a national organization recognized by the Board. In addition to core standards, the advanced practice registered nurse in the role of certified nurse practitioner provides initial and ongoing comprehensive primary care services to clients including, but not limited to, diagnosis and management of acute and chronic disease, and health promotion, disease prevention, health education counseling, and identification and management of the effects of illness on clients and their families. ()

08. Certified Registered Nurse Anesthetist. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse anesthesia program and has current certification as a nurse anesthetist from a national organization recognized by the Board. In addition to core standards, the advanced practice registered nurse in the role of certified registered nurse anesthetist provides the full spectrum of anesthesia care and anesthesia-related care and services to individuals across the lifespan whose health status may range across the wellness-illness continuum to include healthy persons; persons with immediate, severe or life-threatening illness or injury; and persons with sustained or chronic health conditions. ()

09. Clinical Nurse Specialist. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate clinical nurse specialist program and has current certification as a clinical nurse specialist from a national organization recognized by the Board. In addition to core standards, the advanced practice registered nurse in the role of clinical nurse specialist provides services to patients, care providers and health care delivery systems including, but not limited to, direct care, expert consultation, care coordination, monitoring for quality indicators and facilitating communication between patients, their families, members of the health care team and components of the health care delivery system. ()

10. 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. ()

11. 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. ()

12. 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 through interview, physical exam, diagnostic tests or other investigations. ()

13. Disability. Any physical, mental, or emotional condition that interferes with the ability to safely and competently practice. ()

14. 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. ()

15. Nursing Assessment. The systematic collection of data related to the patient's health needs. ()

16. Nursing Diagnoses. The clinical judgments or conclusions regarding patient/client/family/community response to actual or potential health problems made as a result of the nursing assessment. ()

17. Nursing Intervention. An action deliberately selected and performed to support the plan of care. ()

18. Nursing Jurisdiction. Unless the context clearly denotes a different meaning, when used in these rules, the term nursing jurisdiction means any or all of the fifty (50) states, U.S. territories or commonwealths. ()

19. 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. ()

20. Peer Review Process. The systematic process by which a qualified peer assesses, monitors, and makes judgments about the quality of care provided to patients measured against established practice standards. Peer review measures on-going practice competency of the advance practice registered nurse (APRN) and is performed by a licensed APRN, physician, physician assistant, or other professional certified by a recognized credentialing organization. Peer review focuses on a mutual desire for quality of care and professional growth incorporating attitudes of mutual trust and motivation. ()

21. Plan of Care. The goal-oriented strategy developed to assist individuals or groups to achieve optimal health potential. ()

22. Population Focus. Means the section of the population which the APRN has targeted to practice within. The categories of population foci are family/individual across the lifespan, adult-gerontology, women's health/gender-related, neonatal, pediatrics, and psychiatric-mental health. ()

23. 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. ()

24. 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. ()

25. Restricted License. A nursing license subject to specific restrictions, terms, and conditions. ()

26. 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. ()

27. Specialization. Means a more focused area of preparation and practice than that of the APRN role/population foci that is built on established criteria for recognition as a nursing specialty to include, but not limited to, specific patient populations (e.g., elder care, care of post-menopausal women), and specific health care needs (e.g., palliative care, pain management, nephrology). ()

28. Supervision. Designating or prescribing a course of action, or giving procedural guidance, direction, and periodic evaluation. ()

29. Unlicensed Assistive Personnel (UAP). This term is used to designate unlicensed personnel employed to perform nursing care services under the direction and supervision of licensed nurses. The term 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. UAPs are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402, Idaho Code. UAPs 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. ()

003. USE OF TITLES, ABBREVIATIONS, AND DESIGNATIONS FOR THE PRACTICE OF NURSING.

Only those persons who hold a license or privilege to practice nursing in this state shall have the right to use the following title abbreviations: ()

01. Title: “Registered Nurse” and the abbreviation “RN”. ()

02. Title: “Licensed Practical/Vocational Nurse” and the abbreviation “LPN/VN”. ()

03. Abbreviations. Only those persons who hold a license or privilege to practice advanced practice registered nursing in this state shall have the right to use the title “advanced practice registered nurse” and the roles of “certified registered nurse anesthetist,” “certified nurse-midwife,” “clinical nurse specialist” and “certified nurse practitioner,” and the abbreviations “APRN,” “CRNA,” “CNM,” “CNS” and “CNP,” respectively. ()

04. More Abbreviations. The abbreviation format for the Advanced Practice Registered Nurse will be “APRN”, plus the role title abbreviation of “CRNA”, “CNM”, “CNS”, or “CNP” respectively. ()

004. -- 099. (RESERVED)

100. LICENSURE.

01. Persons Exempted by the Board. Licensure to practice nursing is not necessary, nor is the practice of nursing prohibited for persons exempted by the Board including: ()

a. Technicians and technologists may perform limited nursing functions within their training, education and experience provided they have enrolled in or completed a formal training program or are registered or certified by a national organization approved by the Board. ()

b. A nurse apprentice is a nursing student who is employed for remuneration in a non-licensed capacity outside the student role by a Board approved health care agency. Applicants for a nurse apprentice must be enrolled in good standing in an accredited nursing education program that is substantially similar to Idaho’s programs

for licensed/registered nursing and satisfactorily complete a basic nursing fundamentals course. ()

c. Applicants for nurse apprentice must: ()

i. Be enrolled in an accredited/approved nursing education program that is substantially equivalent to Idaho’s approved programs for practical/registered nursing. ()

ii. Be in good academic standing at the time of application and notify the Board of any change in academic standing. ()

iii. Satisfactorily complete a basic nursing fundamentals course. ()

iv. Complete an application. ()

v. An individual whose application is approved will be issued a letter identifying the individual as a nurse apprentice for a designated time period to extend not more than three (3) months after successful completion of the nursing education program. ()

vi. A nurse apprentice may, under licensed registered nurse supervision, perform all functions approved by the Board for unlicensed assistive personnel as set forth in Subsection 002.29 of these rules. ()

02. Types of Nurse Licensure. ()

a. Licensed Registered Nurse (RN). Licensed Registered Nurses are expected to exercise competency in judgment, decision making, implementation of nursing interventions, delegation of functions or responsibilities, and administration of medications and treatments prescribed by legally authorized persons. ()

b. Licensed Registered Nurse Functioning In Specialty Areas. A licensed registered nurse may carry out functions beyond the basic educational preparation within the parameters of a nursing specialty that meets criteria approved by the American Board of Nursing Specialties (ABNS) or the National Commission for Certifying Agencies (NCCA) of the National Organization of Competency Assurance (NOCA) when the nurse has completed additional education through an organized program of study which includes clinical experience and conforms to recognized nursing specialty practice parameters. ()

c. Licensed Practical Nurse (LPN). Licensed practical nurses function in dependent roles. The stability of the patient’s environment, the patient’s clinical state, and the predictability of the outcome determine the degree of direction and supervision that must be provided to the licensed practical nurse. ()

03. Licensure: General Requirements. ()

a. Board Forms. Initial applications, renewal applications and other forms used for licensure or other purposes must be in such form as designated by the Board. ()

b. Date License Lapsed. Licenses not renewed prior to September 1 of the appropriate year are lapsed and therefore invalid. ()

c. LPN, RN, and APRN License Renewal. The original completed renewal application and renewal fee as prescribed in Section 400 of these rules, are submitted to the Board and post-marked or electronically dated not later than August 31 of the appropriate renewal year. All licenses are renewed as prescribed in section 54-1411, Idaho Code. ()

d. Reapplication. Review of a denied application may be requested by submitting a written statement and documentation that includes evidence, satisfactory to the Board, of rehabilitation, or elimination or cure of the conditions for denial. ()

e. Only one license- exception. A licensee may hold only one (1) active renewable license to practice nursing at any time except that licensed advanced practice registered nurses must also be licensed to practice as

licensed registered nurses. ()

04. Temporary Licensure. ()

a. Issued at Discretion of Board. Temporary licenses are issued for a period not to exceed ninety (90) days, and may be extended, at the discretion of the Board. ()

b. Temporary Licensure by Interstate Endorsement. A temporary license may be issued to an applicant for interstate endorsement on proof of current licensure in good standing in another nursing jurisdiction, and in compliance with the requirements of Section 100.07 of these rules. ()

c. 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 beginning thirty (30) days prior to graduation from a nursing education program recognized by the professional licensing board for another nursing jurisdiction, and compliance with Section 100.05 of these rules. ()

d. The practice of nursing by new graduates holding temporary licensure is limited as follows: ()

i. Direct supervision is provided by a licensed registered nurse that is physically present and immediately accessible to designate or prescribe a course of action or to give procedural guidance, direction, and periodic evaluation. ()

ii. Precluded from acting as charge nurse. ()

e. Unsuccessful Examination Candidates. An applicant who fails to pass the licensing examination is not eligible for further temporary licensure. 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. ()

f. 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 nursing jurisdiction 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. ()

g. 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 a nursing jurisdiction, pending notification of results of the licensing examination. ()

h. Temporary Licensure- Advanced Practice Registered Nurse. A temporary license to engage in advanced practice registered nursing may be issued to the following: ()

i. An otherwise qualified applicant who is eligible to take the first available certification examination following completion of an approved advanced practice registered nurse education program. Verification of registration to write a Board-recognized national certification examination must be received from the national certifying organization. ()

ii. 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 registered nursing until such time as all requirements are met. ()

iii. An applicant who is granted a temporary license to practice as an advanced practice registered 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. ()

iv. 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 registered nursing until such time as

all requirements are met. ()

i. Applicants Whose Certification Has Lapsed. A licensed registered nurse applying for re-entry into advanced registered 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. ()

j. Applicants Holding a Temporary Registered Nursing License. An advanced practice registered nurse currently authorized to practice advanced practice registered nursing in another nursing jurisdiction upon issuance of a temporary license to practice as a registered nurse, and upon evidence of current certification as an advanced practice registered nurse from a Board-recognized national certifying organization. ()

k. Applicants Without Required Practice Hours. An advanced practice registered 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. ()

l. Application Processing. An APRN whose application has been received but is not yet completed required practice hours may be issued a temporary license. ()

m. Term of Temporary License. A temporary license expires at the conclusion of the term for which it is issued, or the issuance of a renewable license, whichever occurs earlier. ()

05. Qualifications for Licensure by Examination. ()

a. In-State. Individuals who have successfully completed all requirements for graduation and have been conferred a degree from an Idaho nursing education program approved by the Board, will be eligible to make application to the Board to take the licensing examination. ()

b. Out-of-State. Individuals who hold a certificate of completion from a nursing education program having board of nursing approval in another nursing jurisdiction will be eligible to make application to the Board to take the licensing examination, providing they meet substantially the same basic educational requirements as graduates of Idaho nursing education programs at the time of application. ()

c. Practical Nurse Equivalency Requirement. An applicant for practical nurse licensure by examination who has not completed an approved practical nurse program, must provide satisfactory evidence (such as official transcripts) of successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses to include a course in personal and vocational relationships of the practical nurse. Related courses are to be equivalent to those same courses included in a practical nursing program approved by the Board. ()

d. Time Limit for Examinations. Graduates who do not take the examination within twelve (12) months following completion of the nursing education program must follow specific remedial measures as prescribed by the Board. ()

06. Examination and Re-Examination. ()

a. Applicants for Registered or Practical Nurse Licensure. Applicants will successfully pass the National Council Licensure Examination (NCLEX) for registered nurse licensure or for practical nurse licensure, as applied for and approved. In lieu of the NCLEX, the Board may accept documentation that the applicant has taken and successfully passed the State Board Test Pool examination. ()

07. Qualifications for Licensure by Endorsement. ()

a. An applicant for Idaho licensure by interstate endorsement must: ()

i. Graduation. Be a graduate of a state approved/accredited practical or registered nursing education program Applicants for practical nurse licensure may also qualify under the provisions of Section 100.08.a of these

rules. ()

ii. 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. ()

iii. Minimum Requirements. In lieu of the requirements in Section 100.08.a of this rule, have qualifications that are substantially equivalent to Idaho’s minimum requirements. ()

iv. License from Another Nursing Jurisdiction. Hold a current, valid, and unrestricted license from another nursing jurisdiction. ()

08. Licensure by Equivalency and Endorsement Licensure. ()

a. Application by Equivalency. An applicant for practical nurse licensure by interstate endorsement based on equivalency must meet the following requirements: ()

i. Have successfully taken the same licensing examination as that administered in Idaho; and ()

ii. Hold a license in another nursing jurisdiction based on successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses to include a course 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. ()

b. Applicants Licensed in Another Nursing Jurisdiction. Graduates of schools of nursing located outside the United States, its territories or commonwealths who are licensed in a nursing jurisdiction and who meet the requirements of Subsection 09 of these rules may be processed as applicants for licensure by endorsement from another state. ()

09. Qualifications for Licensure of Graduates of Schools of Nursing Located Outside the United States, Its Territories, or Commonwealths. A graduate from a nursing education program outside of the United States, its territories or commonwealths must: ()

a. Qualifications. Demonstrate nursing knowledge and; if the prelicensure education program is not taught in English or if English is not the individual’s native language, successfully passed an English proficiency examination that includes components of reading, writing, speaking and listening. ()

b. Education Credentials. Have education qualifications that are substantially equivalent to Idaho’s minimum requirements at the time of application. ()

c. License. Hold an active, unencumbered 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, its territories or commonwealths. ()

d. Examination/Re-Examination. Take and achieve a passing score on the licensing examination required in Subsection 100.06 of these rules. ()

10. Qualifications for Advanced Practice Registered Nurse. To qualify as an advanced practice registered nurse, an applicant shall provide evidence of: ()

a. Current Licensure. Current licensure to practice as a registered nurse in Idaho; ()

b. Completion of Advanced Practice Registered Nurse Program. Successful completion of a graduate or post-graduate advanced practice registered nurse program which is accredited by a national organization recognized by the Board; and ()

c. National Certification. Current national certification by an organization recognized by the Board

for the specified APRN role. ()

11. Recognition of National Certifying Organizations for Advanced Practice Registered Nursing.

The Board recognizes advanced practice registered nurse certification organizations that meet criteria as defined by the National Council of State Boards of Nursing. ()

12. Renewal of Advanced Practice Registered Nurse License. The advanced practice registered nurse license may be renewed every two (2) years as specified in Section 54-1411, Idaho Code, provided that the advanced practice registered nurse: ()

a. Current Registered Nurse License. Maintains a current registered nurse license or privilege to practice in Idaho. ()

b. Evidence of Certification. Submits evidence of current APRN certification by a national organization recognized by the Board. ()

c. Evidence of Continuing Education. Provides documentation of thirty (30) contact hours of continuing education during the renewal period, which shall include ten (10) contact hours in pharmacology if the nurse has prescriptive authority. ()

d. Hours of Practice. Attests, on forms provided by the Board, to a minimum of two hundred (200) hours of advanced registered nursing practice within the preceding two (2) year period. ()

e. Peer Review Process. Provides evidence, satisfactory to the Board, of participation in a peer review process acceptable to the Board. ()

f. 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 Subsection 100.12.b of these rules. ()

13. Persons Exempted from Advanced Practice Registered Nursing License Requirements. ()

a. Students. Nothing in these rules prohibits a registered nurse who holds a current license, or privilege, to practice in Idaho and who is enrolled as a matriculated student in a nationally accredited educational program for advanced practice registered nursing from practicing as an advanced practice registered nurse when such practice is an integral part of the advanced practice registered nurse curriculum. ()

b. Certified Nurse Practitioners Licensed Prior to July 1, 1998. A certified nurse practitioner authorized to practice prior to July 1, 1998 may satisfy the requirement of Subsection 100.12.b of these rules by documenting competency within their specialty area of practice based upon education, experience and national certification in that specialty or education, experience and approval by the Board. ()

c. Advanced Practice Registered Nurses Educated Prior to January 1, 2016. ()

i. An applicant for APRN licensure who completed a nationally accredited undergraduate or certificate APRN program prior to January 1, 2016, does not need to meet the APRN graduate or post-graduate educational requirements for initial licensure contained within Subsection 100.10 of these rules. ()

ii. A person applying for APRN licensure in Idaho who: holds an existing APRN license issued by any nursing jurisdiction, completed their formal APRN education prior to January 1, 2016, and who meets all of the requirements for initial licensure contained within Subsection 100.10 of these rules except for the APRN graduate or post-graduate educational requirement, may be issued an APRN license by endorsement if at the time the person received their APRN license in the other jurisdiction they would have been eligible for licensure as an APRN in Idaho. ()

14. Reinstatement. A person whose license has lapsed for failure to pay the renewal fee by the

specified date may apply for reinstatement by submitting the items set out in Section 54-1411(3), Idaho Code and a current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code, as well as paying the fees prescribed in these rules. ()

a. Application Following Discipline. A person whose license has been subject to disciplinary action by the Board is to include documentation of compliance with any term and restrictions set forth in any order as a condition of reinstatement. ()

b. Appearance Before Board. Applicants for reinstatement may be called to appear before the Board. ()

c. Application for Reinstatement After Revocation. Unless otherwise provided in the order of revocation, applicants for reinstatement of revoked licenses are precluded from applying for reinstatement for a period of two (2) years after entry of the order. ()

d. Following Disciplinary Action. ()

i. After evaluation of an application for licensure reinstatement, the Board may issue a restricted license to a nurse whose license has been revoked. ()

ii. The Board will specify the conditions of issuance of the restricted license in writing. The conditions may be stated on the license. ()

15. Reinstatement of Advanced Practice Registered Nurse License. An advanced practice registered nurse license may be reinstated as specified in Section 54-1411, Idaho Code, provided that the applicant: ()

a. Current Registered Nurse License. Maintains a current registered nurse license or privilege to practice in Idaho. ()

b. Evidence of Certification. Submits evidence of current APRN certification by a national organization recognized by the Board. ()

c. Fee. Pays the fee specified in Section 400 of these rules. ()

101. -- 149. (RESERVED)

150. NURSING EDUCATION FOR REGISTERED AND PRACTICAL NURSES.

01. Nursing Educational Programs. ()

a. Accreditation. To qualify as an approved education program for the purpose of qualifying graduates for licensure, the nursing education program must be currently accredited by the Accreditation Commission for Education in Nursing, or the Commission on Collegiate Nursing Education, or the Commission for Nursing Education Accreditation. ()

b. Limited-Time Approval for Nursing Education Programs. ()

i. Prior to obtaining the accreditation described in Rule 150.01, a nursing education program may submit a board-approved application to qualify for a limited-time program approval demonstrating initial implementation of accreditation standards and continued compliance towards obtaining the accreditation. ()

ii. A nursing education program with limited-time approval may only qualify graduates for licensure until the program becomes accredited or until five years from the date of the initial application for accreditation, whichever is less. ()

iii. A nursing education program with limited-time approval must provide an annual report. ()

iv. A nursing education program with limited-time approval must have each student prior to enrollment execute a disclosure which, at a minimum, states the following: “The nursing education program in which you are enrolling has not yet been accredited. The program is being reviewed by the [insert name of accrediting body]. This program is allowed to enroll new students because it meets the requirements of Rule 150.01.b. Any education you complete before a final determination by the [insert name of accrediting body] will satisfy associated state requirements for licensure. If the [insert name of accrediting body] ultimately determines that the program does not qualify for accreditation, you will not be made eligible for the NCLEX by the State of Idaho.” ()

v. A nursing education program with limited-time approval may not enroll any new students into the program beyond five years from the date of the initial application for accreditation unless the program has a final site visit scheduled with a nursing program accreditor. ()

02. Board Notification. ()

a. If an accredited program or limited-time program seeking accreditation receives notice or determines that its accreditation status is in jeopardy, the institution offering the program must immediately notify the Board of its accreditation status; immediately and verifiably notify each enrolled student in writing of the program's accreditation status, including: the estimated date when the accrediting body will make its final determination as to the program's accreditation; the potential impact of a program's accreditation status on the graduate's ability to secure licensure and employment or transfer academic credits to another institution in the future; and attempt negotiations with other academic institutions to establish a transfer articulation agreement. ()

b. If a program with limited-time approval fails to achieve accreditation within the timeframe specified in Rule 150.01.b, or if a program loses its accreditation, the institution offering the program shall: submit a written report of official notice of losing accreditation or failing to achieve accreditation to the Board within ten days of receiving formal notification from the accrediting body; notify each matriculated and pre-enrollment nursing student about the program's accreditation status; inform each nursing student who will graduate from a non-accredited program that they will not be eligible for initial licensure through the state; and provide the Board with a written plan to close the program and cease operations to the Board within ten days of receiving formal notice of losing accreditation from the program's accrediting body. ()

03. Continuance of Full Approval of Educational Program. ()

a. The Board may rescind full approval that has been granted to a nursing education program that consistently fails to meet the Board's standards, as evidenced in the annual report, failure to include a Board representative in site visits, or unacceptable performance on a licensing examination for each program with a pass rate of less than eighty percent (80%) for its first-time writers in any given year for two consecutive calendar years. ()

151. -- 199. (RESERVED)

200. PRACTICE STANDARDS.

01. Decision-Making Model. The decision-making model is the process by which a licensed nurse evaluates whether a particular act is within the legal scope of that nurse's practice and determines whether to delegate the performance of a particular nursing task in a given setting. This model applies to all licensure categories permitting active practice, regardless of practice setting. ()

a. **Determining Scope of Practice.** To evaluate whether a specific act is within the legal scope of nursing practice, a licensed nurse shall determine whether: ()

i. The act is expressly prohibited by the Nursing Practice Act, or the act is limited to the scope of practice of advanced practice registered nurses or to licensed registered nurses, or the act is prohibited by other laws; ()

ii. The act was taught as a part of the nurse's educational institution's required curriculum and the

nurse possesses current clinical skills; ()

iii. The act is consistent with standards of practice published by a national specialty nursing organization or supported by recognized nursing literature or reputable published research and the nurse can document successful completion of additional education through an organized program of study including supervised clinical practice or equivalent demonstrated competency; ()

iv. Performance of the act is within the accepted standard of care that would be provided in a similar situation by a reasonable and prudent nurse with similar education and experience and the nurse is prepared to accept the consequences of the act. ()

b. Deciding to Delegate. When delegating nursing care, the licensed nurse retains accountability for the delegated acts and the consequences of delegation. Before delegating any task the nurse shall: ()

i. Determine that the acts to be delegated are not expressly prohibited by the Nursing Practice Act or Board rules and that the activities are consistent with job descriptions or policies of the practice setting; ()

ii. Assess the client’s status and health care needs prior to delegation, taking into consideration the complexity of assessments, monitoring required and the degree of physiological or psychological instability; ()

iii. Exercise professional judgment to determine the safety of the delegated activities, to whom the acts may be delegated, and the potential for harm; ()

iv. Consider the nature of the act, the complexity of the care needed, the degree of critical thinking required and the predictability of the outcome of the act to be performed; ()

v. Consider the impact of timeliness of care, continuity of care, and the level of interaction required with the patient and family; ()

vi. Consider the type of technology employed in providing care and the knowledge and skills required to effectively use the technology, including relevant infection control and safety issues; ()

vii. Determine that the person to whom the act is being delegated has documented education or training to perform the activity and is currently competent to perform the act; and ()

viii. Provide appropriate instruction for performance of the act. ()

c. Delegating to UAPs. ()

i. The nursing care tasks that may be delegated to UAPs shall be stated in writing in the practice setting. Decisions concerning delegation will be determined in accordance with the provisions of Section 400 of these rules. UAPs may complement the licensed nurse in the performance of nursing functions, but cannot substitute for the licensed nurse; UAPs cannot redelegate a delegated act. ()

ii. Where permitted by law, after completion of a Board-approved training program, UAPs in care settings may assist patients who cannot independently self-administer medications, provided that a plan of care has been developed by a licensed registered nurse, and the act has been delegated by a licensed nurse. 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. ()

d. Monitoring Delegation. Subsequent to delegation, the licensed nurse shall: ()

i. Evaluate the patient’s response and the outcome of the delegated act, and take such further action as necessary; and ()

ii. Determine the degree of supervision required and evaluate whether the activity is completed in a manner that meets acceptable outcomes. The degree of supervision shall be based upon the health status and stability of the patient, the complexity of the care and the knowledge and competence of the individual to whom the activity is delegated. ()

02. Standards of Conduct. ()

a. License. ()

i. Reporting Grossly Negligent or Reckless Practice. The nurse shall report to the Board any licensed nurse who is grossly negligent or reckless in performing nursing functions or who otherwise violates the Nursing Practice Act or the Board rules. ()

ii. Unlawful Use of License. The nurse shall not permit their license to be used by another person for any purpose or permit unlicensed persons under their jurisdiction or supervision to indicate in any way that they are licensed to perform functions restricted to licensed persons. ()

b. Practice. The nurse shall have knowledge of the statutes and rules governing nursing and function within the defined legal scope of nursing practice, not assume any duty or responsibility within the practice of nursing without adequate training: ()

i. Delegate activities only to persons who are competent and qualified to undertake and perform the delegated activities and will not delegate to non-licensed persons functions that are to be performed only by licensed nurses. The nurse delegating functions is to supervise the persons to whom the functions have been assigned or delegated. ()

ii. Act to safeguard the patient from the incompetent practice, verbal or physical abusive acts or illegal practice of any person. ()

iii. Not obtain, possess, furnish or administer prescription drugs to any person, including self, except as directed by a person authorized by law. ()

iv. Not abandon patients in need of nursing care in a negligent manner. The nurse will leave a nursing assignment only after properly reporting and notifying appropriate personnel and will transfer responsibilities to appropriate personnel or care giver when continued care is necessitated by the patient's condition. ()

v. Respect the patient's privacy. ()

vi. Observe the condition and signs and symptoms of a patient, record the information, and report to appropriate persons any significant changes. ()

vii. 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. ()

viii. Adhere to precautions and carry out principles of asepsis and infection control and not place the patient, the patient's family or the nurse's coworkers at risk for the transmission of infectious diseases. ()

03. Professional Responsibility. ()

a. Disclosing Contents of Licensing Examination. The nurse is not to disclose contents of any licensing examination, or solicit, accept, or compile information regarding the contents of any examination before, during, or after its administration. ()

b. Considerations in Providing Care. In providing nursing care, the nurse will respect and consider the individual's human dignity, health problems, personal attributes, national origin, and handicaps and not discriminate on the basis of age, sex, race, religion, economic or social status or sexual preferences. ()

c. Responsibility and Accountability Assumed. The nurse is responsible and accountable for their nursing judgments, actions and competence. ()

d. Witnessing Wastage of Controlled Substances Medication. Controlled substances may not be wasted without witnesses. The nurse cannot sign any record as a witness attesting to the wastage of controlled substance medications unless the wastage was personally witnessed. The nurse cannot solicit the signatures on any record of a person as a witness to the wastage of a controlled substance when that person did not witness the wastage. The nurse will solicit signatures of individuals who witnessed the wastage in a timely manner. ()

e. Record-keeping. The nurse shall make or keep accurate, intelligible entries into records mandated by law or customary practice of nursing, and will not knowingly make incorrect or unintelligible entries into patients' records or employer or employee records. ()

f. Diverting or Soliciting. The nurse will respect the property of the patient and employer and not take or divert equipment, materials, property, or drugs without prior consent or authorization, nor solicit or borrow money, materials or property from patients. ()

g. Professionalism. The nurse must not abuse the patient's trust, will 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 is not to engage in sexual misconduct or violent, threatening or abusive behavior towards patients, patients' families or the nurse's coworkers. The nurse will 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. ()

h. Sexual Misconduct with a Patient. The nurse must not engage in sexual misconduct. For purposes of this rule, sexual misconduct is defined as set forth in Section 18-919(b)(1)-(4), Idaho Code. ()

04. Standards of Practice for Advanced Practice Registered Nursing. ()

a. Core Standards for All Roles of Advanced Practice Registered Nursing. The advanced practice registered nurse is a licensed independent practitioner who shall practice consistent with the definition of advanced practice registered nursing, recognized national standards and the standards set forth in these rules. ()

b. The advanced practice registered nurse shall provide client services for which the advanced practice registered nurse is educationally prepared and for which competence has been achieved and maintained. ()

c. The advanced practice registered nurse shall recognize their limits of knowledge and experience and consult and collaborate with and refer to other health care professionals as appropriate. ()

d. The advanced practice registered nurse shall evaluate and apply current evidence-based research findings relevant to the advanced nursing practice role. ()

e. The advanced practice registered nurse shall assume responsibility and accountability for health promotion and maintenance as well as the assessment, diagnosis and management of client conditions to include the use of pharmacologic and non-pharmacologic interventions and the prescribing and dispensing of pharmacologic and non-pharmacologic agents. ()

f. The advanced practice registered nurse shall use advanced practice knowledge and skills in teaching and guiding clients and other health care team members. ()

g. The advanced practice registered nurse shall have knowledge of the statutes and rules governing advanced nursing practice, and practice within the established standards for the advanced nursing practice role and population focus. ()

h. The advanced practice registered nurse shall practice consistent with Subsection 200.01 of these rules. ()

i. Unless exempted under Section 100.13.b of these rules, an Advanced Practice Registered Nurse must document competency within their specialty area of practice based upon the education, experience, and national certification in the role and population focus. ()

05. Prescriptive and Dispensing Authorization for Advanced Practice Registered Nurses. ()

a. Prescriptions written by advanced practice registered nurses shall contain all the minimum information required by Idaho Board of Pharmacy statute and administrative rules and applicable federal law as well as the printed name and signature of the nurse prescriber, and the abbreviation for the applicable role of the advanced practice nurse (i.e. “CNP,” “CNM,” “CNS,” or CRNA”). If the prescription is for a controlled substance, it shall also include the DEA registration number and address of the prescriber. ()

b. Prescribing and Dispensing Authorization. All advanced practice registered nurses may prescribe and dispense pharmacologic and non-pharmacologic agents pursuant to applicable state and federal laws. ()

06. Valid Advanced Practice Registered Nurse/Patient Relationships. ()

a. An advanced practice registered nurse shall not prescribe or dispense pharmacologic agents except in the course of their professional practice and when a bona fide advanced practice registered nurse/patient relationship has been established pursuant to Section 54-1733, Idaho Code. A valid relationship will exist when the advanced practice registered nurse has obtained sufficient knowledge of the patient’s medical condition through examination and has assumed responsibility for the health care of the patient. ()

201. -- 299. (RESERVED)

300. DISCIPLINE.

01. Grounds. In addition to the grounds set forth in Section 54-1413, Idaho Code, a nursing license may be suspended, revoked, placed upon probation, or other disciplinary sanctions imposed by the Board on the following grounds: ()

a. Conduct to Deceive, Defraud, or Endanger. Conduct of a character likely to deceive, defraud, or endanger patients or the public. ()

b. Violations of Standards of Conduct. Violations of standards of conduct and practice adopted by the Board. ()

c. Habitual Use of Alcohol or Drugs. Use of drugs or alcohol to the extent that the nurse's judgment, skills, or abilities to provide safe and competent nursing care are impaired. ()

d. Physical or Mental Unfitness. A court order or evaluation by a qualified professional which determines that a licensee is physically or mental incompetent or incapable of providing safe and competent nursing care. ()

02. Grounds for Discipline of an Advanced Practice Registered Nurse License. In addition to the grounds set forth in Section 54-1413, Idaho Code, and Sections 200 and 300 of these rules, an advanced practice registered nursing license may be suspended, revoked, placed upon probation, or other disciplinary sanctions imposed by the Board on the following grounds: ()

a. Prescribing or Dispensing Controlled Substances. Prescribing, dispensing, or selling any drug classified as a controlled substance to a family member or to oneself. For purposes of Section 316 of these rules, “family member” is defined as the licensee’s spouse, child (biological, adopted, or foster), parent, sibling, grandparent, grandchild, or the same relation by marriage. ()

b. Violating Governing Law. Violating any state or federal law relating to controlled substances. ()

c. Outside Scope of Practice. Prescribing or dispensing outside the scope of the advanced practice registered nurse's practice. ()

03. Restricted Status. ()

a. The Board shall have the power to restrict the license of a licensee upon a determination by the Board that the licensee engaged in conduct constituting disciplinary grounds pursuant to Section 54-1413, Idaho Code. ()

b. The conditions of restricted licensure may include, but are not limited to: ()

i. Submission of regular reports to the Board. ()

ii. Meeting with Board representatives. ()

iii. Specific parameters of practice, excluding the performance of specific nursing functions. ()

iv. The conditions of restricted practice may be removed by the Board following receipt of evidence confirming that the licensee can safely practice nursing. ()

c. Compliance Required. Restricted licensure is conditioned upon an individual's prompt and faithful compliance with terms and conditions, which may include: ()

i. Satisfactory progress in any ordered continuing treatment or rehabilitation program. ()

ii. Obtaining of performance evaluations prepared by the employer to be submitted at specified intervals and at any time upon request ()

iii. 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 any time upon request. ()

iv. Submission of self-evaluations and personal progress reports at specified intervals and at any time upon request. ()

v. 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. ()

vi. Meeting with the recovery program's staff or advisory committee at any time upon request. ()

vii. Working only in approved practice settings. ()

viii. Authorization by the 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. ()

ix. Compliance with all laws pertaining to nursing practice, all nursing standards, and all standards policies and procedures of the licensee's employer relating to any of the admitted misconduct or facts set out in the written statement signed by the licensee, or relating to the providing of safe, competent nursing service. ()

x. Compliance with other specific terms as may be directed by the executive officer. ()

04. Disability Due to Substance Use Disorder or Mental Health Disorder. ()

a. In lieu of discipline, the Board may refer a licensee who is chemically dependent or physically or

psychologically impaired to a peer assistance entity. ()

b. As a condition of entry into a peer assistance entity, the licensee may be required to sign a written statement admitting to all facts that constitute grounds for disciplinary action and/or demonstrate impairment of the safe practice of nursing and waive the right to a contested case hearing under the Idaho Administrative Procedures Act. ()

c. The Board may act through an emergency proceeding where there is reasonable cause to believe that continued practice by the nurse would create immediate danger to public health, safety, or welfare requiring immediate agency action. ()

i. The Board or its agent is authorized to summarily suspend the license of a nurse without a hearing if it has reasonable cause to believe that there is an immediate danger to public health, safety, or welfare; ()

ii. The Board shall promptly notify the licensee in writing. The licensee shall have the right to request a hearing on the summary suspension, which shall be held within a reasonable time after receipt of the request; ()

iii. The suspension shall remain in effect until the Board or its agent issues a stay of suspension or a final order in the matter after hearing or agreement of the parties. ()

05. Emergency Action. ()

a. The Board may act through an emergency proceeding where there is reasonable cause to believe that continued practice by the licensee would create immediate danger to public health, safety, or welfare requiring immediate agency action. ()

b. The Board shall schedule a disciplinary hearing to be held under Title 67, Chapter 52, Idaho Code and provide reasonable notice. ()

c. The Board shall issue an order, including a brief, reasoned statement to justify both the decision that an immediate danger exists and the decision to take specific action. The order is effective when issued. ()

301. -- 399. (RESERVED)

400. INITIAL LICENSE, RENEWAL AND REINSTATEMENT FEES.

01. Assessed Fees. Fees will be assessed for issuance, renewal of licensure or for reinstatement of a lapsed, disciplined, limited, or emeritus license. Fees are due at the time of submission. Any person submitting the renewal application and fee dated later than August 31 shall be considered delinquent, and the license lapsed and therefore invalid:

Initial Licensure, Renewal & Reinstatement Fees				
	Registered Nurse	Practical Nurse	Advanced Practice Nurse	Medication Assistant - Certified
Temporary License Fee	\$25	\$25	\$25	
Initial Application Fee			\$90	
License by Exam Fee	\$90	\$75	\$90	
License by Endorsement	\$110	\$110		
License Renewal	\$90	\$90	\$90	\$35
Expiration Date	Aug 31-odd years	Aug 31-even years	Aug 31-odd years	Aug 31-even years

()

02. Reinstatement Fee. Nurses requesting reinstatement of a lapsed, disciplined, or restricted license, or reinstatement of an emeritus license to active status, will be assessed the records verification and renewal fees. ()

03. Other Fees.

Records Verification Fee	\$35
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401. -- 999. (RESERVED)

24.36.01 – RULES OF THE IDAHO STATE BOARD OF PHARMACY

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717, 54-1753, and 54-1755, Idaho Code. ()

001. SCOPE.

These rules regulate and control the manufacture, distribution, and dispensing of controlled substances within or into the state, pursuant to the Uniform Controlled Substances Act, Section 37-2715, Idaho Code; and regulate and control the practice of pharmacy, pursuant to the Idaho Pharmacy Act, Title 54, Chapter 17, Idaho Code. ()

002. – 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS (A – N).

The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. ()

01. ACCME. Accreditation Council for Continuing Medical Education. ()

02. ACPE. Accreditation Council for Pharmacy Education. ()

03. ADS – Automated Dispensing and Storage. A mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of drugs and that collects, controls, and maintains transaction information. ()

04. Change of Ownership. A change of majority ownership or controlling interest of a drug outlet licensed or registered by the Board. ()

05. CME. Continuing medical education. ()

06. CPE. Continuing pharmacy education. ()

07. CPE Monitor. An NABP service that allows pharmacists to electronically keep track of CPE credits from ACPE-accredited providers. ()

08. DEA. United States Drug Enforcement Administration. ()

09. DME Outlet. A registered outlet that may hold for sale at retail durable medical equipment (DME) and the following prescription drugs: pure oxygen for human application, nitrous oxide, sterile sodium chloride, and sterile water for injection. ()

10. Drug Outlet. Drug outlets include, but are not limited to, sterile product pharmacies, remote dispensing pharmacies, facilities operating narcotic treatment programs, DME outlets, prescriber drug outlets, outsourcing facilities, nuclear pharmacies, cognitive service pharmacies, correctional facilities, offsite ADSs for non-emergency dispensing, reverse distributors, mobile pharmacies, and analytical or research laboratories. ()

11. FDA. United States Food and Drug Administration. ()

12. Flavoring Agent. An additive in food or drugs in the minimum quantity necessary. ()

13. Floor Stock. Drugs or devices not labeled for a specific patient that are maintained at a nursing station or other department of an institutional facility, excluding the pharmacy, for the purpose of administering to patients of the facility. ()

14. FPGEC Certification. Foreign Pharmacy Graduate Examination Committee Certification. ()

15. Hazardous Drug. Any drug listed as such by the National Institute for Occupational Safety and Health or any drug identified by at least one (1) of the following criteria: carcinogenicity; teratogenicity or developmental toxicity; reproductive toxicity in humans; organ toxicity at low doses in humans or animals; genotoxicity; or new drugs that mimic existing hazardous drugs in structure or toxicity. ()

16. HIPAA. Health Insurance Portability and Accountability Act of 1996. ()

- 17. **NABP.** National Association of Boards of Pharmacy. ()
- 18. **NAPLEX.** North American Pharmacists Licensure Examination. ()
- 19. **NDC.** National Drug Code. ()

011. DEFINITIONS AND ABBREVIATIONS (O – Z).

The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: ()

01. Parenteral Admixture. The preparation and labeling of sterile products intended for administration by injection. ()

02. Pharmaceutical Care Services. A broad range of services, activities and responsibilities intended to optimize drug-related therapeutic outcomes for patients consistent with Rule 100. Pharmaceutical care services may be performed independent of, or concurrently with, the dispensing or administration of a drug or device and also encompasses services provided by way of DTM under a collaborative practice agreement. Pharmaceutical care services are not limited to, but may include one (1) or more of the following: ()

a. Performing or obtaining necessary assessments of the patient’s health status, including the performance of health screening activities or testing; ()

b. Reviewing, analyzing, evaluating, formulating or providing a drug utilization plan; ()

c. Monitoring and evaluating the patient’s response to drug therapy, including safety and effectiveness; ()

d. Coordinating and integrating pharmaceutical care services within the broader health care management services being provided to the patient; ()

e. Ordering and interpreting laboratory tests; ()

f. Performing drug product selection, substitution, prescription adaptation, or refill authorization as provided in these rules; and ()

g. Prescribing drugs and devices as provided in these rules. ()

03. PDMP. Prescription Drug Monitoring Program. ()

04. Prescriber. An individual currently licensed, registered, or otherwise authorized to prescribe and administer drugs in the course of professional practice. ()

05. Purple Book. The list of licensed biological products with reference product exclusivity and biosimilarity or interchangeability evaluations published by the FDA under the Public Health Service Act. ()

06. Readily Retrievable. Records are considered readily retrievable if they are able to be completely and legibly produced upon request within seventy-two (72) hours. ()

07. Reconstitution. The process of adding a diluent to a powdered medication to prepare a solution or suspension, according to the product’s labeling or the manufacturer’s instructions. ()

08. Restricted Drug Storage Area. The area of a drug outlet where prescription drugs are prepared, compounded, distributed, dispensed, or stored. ()

09. Therapeutic Equivalent Drugs. Products assigned an “A” code by the FDA in the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) and animal drug products published in the FDA

- Approved Animal Drug Products (Green Book). ()
10. USP-NF. United State Pharmacopeia-National Formulary. ()
012. – 099. (RESERVED)

SUBCHAPTER A – GENERAL PROVISIONS
(Rules 100 through 199)

100. PRACTICE OF PHARMACY: GENERAL APPROACH.

To evaluate whether a specific act is within the scope of pharmacy practice in or into Idaho, or whether an act can be delegated to other individuals under their supervision, a licensee or registrant of the Board must independently determine whether: ()

01. **Express Prohibition.** The act is expressly prohibited by: ()
- a. The Idaho Pharmacy Act, Title 54, Chapter 17, Idaho Code; ()
- b. The Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; ()
- c. The rules of the Idaho State Board of Pharmacy; or ()
- d. Any other applicable state or federal laws or regulations. ()
02. **Education, Training, and Experience.** The act is consistent with licensee or registrant’s education, training, and experience. ()
03. **Standard of Care.** Performance of the act is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent licensee or registrant with similar education, training and experience. ()

101. PRESCRIBER PERFORMANCE OF PHARMACY FUNCTIONS.

For the purposes of this chapter, any function that a pharmacist may perform may similarly be performed by an Idaho prescriber or may be delegated by an Idaho prescriber to appropriate support personnel, in accordance with the prescriber's practice act. ()

102. WAIVERS OR VARIANCES.

01. **Emergency Waiver.** In the event of an emergency declared by the President of the United States, the Governor of the State of Idaho, or by any other person with legal authority to declare an emergency, the division administrator may waive any requirement of these rules for the duration of the emergency. ()

103. BOARD INSPECTIONS AND INVESTIGATIONS.

01. **Records Subject to Board Inspection.** Records created, maintained, or retained by Board licensees or registrants in compliance with statutes or rules enforced by the Board must be made available for inspection upon request by Board inspectors or authorized agents. It is unlawful to refuse to permit or to obstruct a Board inspection. ()

02. **Inspections.** Prior to the commencement of business, as applicable, and thereafter at regular intervals, registrants and licensees must permit the Board or its compliance officers to enter and inspect the premises and to audit the records of each drug outlet for compliance with laws enforced by or under the Board’s jurisdiction. ()

03. **Inspection Deficiencies.** Deficiencies noted must be promptly remedied, and if requested, the Board office notified of corrective measures. One (1) follow-up inspection may be performed by the Board at no cost. For additional follow-up inspections, the drug outlet will be charged actual travel and personnel costs incurred in the

inspection to be paid within ninety (90) days of inspection. ()

04. Inspection Reports. Inspection reports must be reviewed with the Board inspector and signed by an agent of the drug outlet upon completion of the exit interview. ()

05. Investigations. Licensees or registrants must fully cooperate with Board investigations conducted to confirm compliance with laws enforced by the Board, to gather information pertinent to a complaint received by the Board, or to enforce disciplinary actions. ()

104. UNPROFESSIONAL CONDUCT.

The following acts or practices by any licensee or registrant are declared to be specifically, but not by way of limitation, unprofessional conduct and conduct contrary to the public interest. ()

01. Unethical Conduct. Conduct in the practice of pharmacy or in the operation of a pharmacy that may reduce the public confidence in the ability and integrity of the profession of pharmacy or endangers the public health, safety, and welfare. A violation of this section includes committing fraud, misrepresentation, negligence, concealment, or being involved in dishonest dealings, price fixing, or breaching the public trust with respect to the practice of pharmacy. ()

02. Lack of Fitness. A lack of fitness for professional practice due to incompetency, personal habits, drug or alcohol dependence, physical or mental illness, or for any other cause that endangers public health, safety, or welfare. ()

03. On-Duty Intoxication or Impairment. Intoxication, impairment, or consumption of alcohol or drugs while on duty, including break periods after which the individual is expected to return to work, or prior to reporting to work. ()

04. Diversion of Drug Products and Devices. Supplying or diverting drugs, biologicals, and other medicines, substances, or devices legally sold in pharmacies that allows the circumvention of laws pertaining to the legal sale of these articles. ()

05. Unlawful Possession or Use of Drugs. Possessing or using a controlled substance without a lawful prescription drug order. A failed drug test creates a rebuttable presumption of a violation of this rule. ()

06. Prescription Drug Order Noncompliance. Failing to follow the instructions of the person writing, making, or ordering a prescription as to its refills, contents, or labeling except as provided in these rules. ()

07. Failure to Confer. Failure to confer with the prescriber when necessary or appropriate or filling a prescription if necessary components of the prescription drug order are missing or questionable. ()

08. Excessive Provision of Controlled Substances. Providing an excessive amount of controlled substances. Evidentiary factors of a clearly excessive amount include, but are not limited to, the amount of controlled substances furnished and previous ordering patterns (including size and frequency of orders). ()

09. Failure to Counsel or Offer Counseling. Failing to counsel or offer counseling, unless specifically exempted or refused. ()

10. Substandard, Misbranded, Adulterated, or Expired Products. Manufacturing, compounding, delivering, distributing, dispensing, or permitting to be manufactured, compounded, delivered, distributed or dispensed substandard, misbranded, or adulterated drugs or preparations or those made using secret formulas. Failing to remove expired drugs from stock. ()

11. Prescriber Incentives. Allowing a commission or rebate to be paid, or personally paying a commission or rebate, to a person writing, making, or otherwise ordering a prescription. ()

12. Exclusive Arrangements. Participation in a plan or agreement that compromises the quality or

extent of professional services or limits access to provider facilities at the expense of public health or welfare. ()

13. Failure to Report. Failing to report to the Board any violation of statutes or rules pertaining to the practice of pharmacy or any act that endangers the health, safety, or welfare of patients or the public. ()

14. Failure to Follow Board Order. Failure to follow an order of the Board. ()

15. Use of False Information. Knowingly using false information in connection with the prescribing, delivering, administering, or dispensing of a controlled substance or other drug product. ()

16. Standard of Care. Acts or omissions within the practice of pharmacy which fail to meet the standard provided by other qualified licensees or registrants in the same or similar setting. ()

17. Unnecessary Services or Products. Directly promoting or inducing for the provisions of health care services or products that are unnecessary or not medically indicated. ()

18. Controlled Substance Non-Compliance. Violating provisions of the federal Controlled Substances Act or Title 37, Chapter 27, Idaho Code. ()

105. – 199. (RESERVED)

SUBCHAPTER B – RULES GOVERNING LICENSURE AND REGISTRATION
(Rules 200 through 299)

200. BOARD OF PHARMACY LICENSURE AND REGISTRATION.

The Board will issue or renew a license or certificate of registration upon application and determination that the applicant has satisfied the requirements of applicable statutes, and any additional criteria specified by these rules. Licenses or registrations must be obtained prior to engaging in these practices or their supportive functions. ()

201. LICENSURE AND REGISTRATION: GENERAL REQUIREMENTS.

01. Board Forms. Initial applications, annual renewal applications, and other forms used for licensure, registration, or other purposes must be in such form as designated by the Board. ()

02. Incomplete Applications. Information requested on any form must be provided and submitted to the Board office with the applicable fee or the submission will be considered incomplete and will not be processed. Applications that remain incomplete after six (6) months from the date of initial submission will expire. ()

03. On-Time Annual Renewal Application. Licenses and registrations must be renewed annually prior to expiration to remain valid. Timely submission of the renewal application is the responsibility of each licensee or registrant. Licenses and certificates of registration issued to individuals will expire annually on the last day of the individual's birth month, and on December 31 for facilities, unless an alternate expiration term or date is stated in these rules. ()

04. Late Renewal Application. Failure to submit a renewal application prior to the expiration date will cause the license or registration to lapse and will result in the assessment of a late fee and possible disciplinary action. A lapsed license or registration is invalid until renewal is approved by the Board and if not renewed within thirty (30) days after its expiration will require reinstatement. ()

05. Exemption. New licenses and registrations issued ten (10) weeks or less prior to the renewal due date are exempt from the renewal requirements that year only. ()

06. Cancellation and Registration. Failure to maintain the requirements for any registration will result in the cancellation of the registration. ()

07. Reinstatement of License or Registration. Unless otherwise specified in Board rule, ()

consideration of a request for reinstatement of a license or registration will require a completed application on a Board form, submission of a completed fingerprint card, as applicable, and payment of any applicable fees due or delinquent at the time reinstatement is requested. ()

08. Parent or Legal Guardian Consent. No person under the age of eighteen (18), unless an emancipated minor, may submit an application for licensure or registration without first providing the Board with written consent from a parent or legal guardian. ()

202. BOARD FEES.

01. Fee Determination and Collection. Pursuant to the authority and limitations established by Sections 37-2715 and 54-1720(5)(a), Idaho Code, the Board has determined and will collect fees for the issuance, annual renewal, or reinstatement of licenses and certificates of registration to persons and drug outlets engaged in acts or practices regulated by the Board. ()

02. Time and Method of Payment. Fees are due at the time of application payable to the “Idaho State Board of Pharmacy.” ()

03. Fee for Dishonored Payment. A reasonable administrative fee may be charged for a dishonored check or other form of payment. If a license or registration application has been approved or renewed by the Board and payment is subsequently dishonored, the approval or renewal is immediately canceled on the basis of the submission of an incomplete application. The board may require subsequent payments to be made by cashier’s check, money order, or other form of guaranteed funds. ()

04. Fee Exemption for Controlled Substance Registrations. Persons exempt pursuant to federal law from fee requirements applicable to controlled substance registrations issued by the DEA are also exempt from fees applicable to controlled substance registrations issued by the Board. ()

203. FEE SCHEDULE.

01. Licenses and Registrations – Professionals.

License/Registration	Initial Fee	Annual Renewal Fee
Pharmacist License	\$140	\$130
Nonresident PIC Registration	\$290	\$290
Pharmacist Intern	\$50	\$50
Technician	\$35	\$35
Practitioner Controlled Substance Registration	\$60	\$60

()

02. Certificates of Registration and Licensure – Facilities.

License/Registration	Initial Fee	Annual Renewal Fee
Drug Outlet (unless otherwise listed)	\$100	\$100
Wholesale License	\$180	\$180
Wholesale Registration	\$150	\$150
Central Drug Outlet (Nonresident)	\$500	\$250
Mail Service Pharmacy	\$500	\$250

License/Registration	Initial Fee	Annual Renewal Fee
Durable Medical Equipment Outlet	\$50	\$50
Outsourcing Facility (Nonresident)	\$500	\$250
Manufacturer	\$150	\$150
Veterinary Drug Outlet	\$35	\$35

()

03. Late Fees and Reinstatements.

Category	Fee
Late payment processing fee	\$50
License or registration reinstatement fee	One-half (1/2) of the amount of the annual renewal

()

04. Administrative Services.

Category	Fee
Experiential hours certification	\$25
Duplicate pharmacist certificate of licensure	\$35

()

204. – 209. (RESERVED)

210. DETERMINATION OF NEED FOR NONRESIDENT LICENSURE OR REGISTRATION.

01. Independent Practice. Nonresident pharmacists must be licensed if engaged in the independent practice of pharmacy across state lines and not practicing for an Idaho registered drug outlet. ()

02. Practice for an Idaho Registered Drug Outlet. A nonresident pharmacist serving as the PIC for an Idaho registered nonresident drug outlet must be registered to practice into Idaho. All other nonresident pharmacists who are employed by, or affiliated with, and practicing for the Idaho registered nonresident drug outlet, but who are not the PIC, are exempt from license and registration requirements for practice into Idaho. ()

03. Multistate Pharmacists. Multistate pharmacists, as defined in Section 54-1723B, Idaho Code, are exempt from separate licensure or registration in Idaho. ()

04. Exemption from Separate Controlled Substance Registration. All pharmacists who are practicing in or into Idaho are exempt from obtaining a separate controlled substance registration, but are subject to compliance with all requirements under Title 37, Chapter 27, Idaho Code. ()

211. PHARMACIST LICENSURE BY EXAMINATION.

To be considered for licensure, a person must satisfy the requirements of Section 54-1722(1)(a) through (e), Idaho Code, submit to the Board an application for licensure by examination, and meet the following: ()

01. Graduates of U.S. Pharmacy Schools. Graduate from an ACPE-accredited school or college of pharmacy within the United States. ()

02. Graduates of Foreign Pharmacy Schools. Graduate from a school or college of pharmacy located outside of the United States, submit certification by the FPGEC, and complete a minimum of seventeen hundred forty (1,740) experiential hours as verified on an employer’s affidavit signed by a pharmacist licensed and practicing in the United States. The Board may request verifiable business records to document the hours. ()

03. Licensure Examinations. Qualified applicants must pass the NAPLEX in accordance with NABP standards. A candidate who fails the NAPLEX three (3) times must complete at least thirty (30) hours of continuing education accredited by an ACPE-accredited provider prior to being eligible to sit for each subsequent reexamination. Candidates are limited to five (5) total NAPLEX attempts. ()

04. Score Transfer. Score transfers into Idaho during the examination registration process are accepted for one (1) year. After taking the exam, score transfers into Idaho must be submitted within eighty-nine (89) days. ()

212. PHARMACIST LICENSURE BY RECIPROCITY.

An applicant for pharmacist licensure by reciprocity must satisfy the requirements of Section 54-1723, Idaho Code, and submit a preliminary application for licensure transfer through NABP. An applicant whose pharmacist license is currently restricted by a licensing entity in another state must appear before the Board to petition for licensure by reciprocity. An applicant not actively engaged in the practice of pharmacy during the year preceding the date of application may have to complete intern hours for each year away from the practice of pharmacy. ()

213. PHARMACIST LICENSE: CPE REQUIREMENTS.

Each pharmacist must complete fifteen (15) CPE hours each calendar year between January 1 and December 31. ()

01. ACPE. At least twelve (12) of the CPE hours obtained must be from programs by an ACPE that have a participant designation of “P” (for pharmacist) as the suffix of the ACPE universal program number. ACPE credits must be reported to and documented in CPE Monitor in order to be accepted. ()

02. CME. A maximum of three (3) of the hours may be obtained from CME, if the credits are: ()

a. Obtained from an ACCME accredited provider; and ()

b. A certificate is furnished that identifies the name of the ACCME accredited provider and a clear reference to its accreditation status, the title of the CME program, the completed hours of instruction, the date of completion, and the name of the individual obtaining the credit. Upon audit, all CME certificates must be submitted to the Board. ()

03. Alternative to CPE. If audited, a pharmacist may substitute a current certification by a nationally accredited pharmacy practice-specific specialty certification program. ()

214. PHARMACIST LICENSE: REINSTATEMENT.

The Board may, at its discretion, consider reinstatement of a pharmacist license upon receipt of a completed application, background check, and payment of the reinstatement and other fees due or delinquent at the time reinstatement is requested. ()

01. Satisfactory Evidence. Reinstatement applicants must provide satisfactory evidence of completion of a minimum of thirty (30) CPE hours within the twenty-four (24) months prior to reinstatement and compliance with any direct orders of the Board. ()

02. Additional Requirements. A pharmacist reinstatement applicant may be required to appear before the Board. The Board may also, at its discretion, impose additional requirements on a pharmacist reinstatement applicant who has not practiced as a pharmacist for the preceding twelve (12) months or longer that may include taking and passing an examination, completion of intern hours, completion of additional CPE hours, or other requirements determined necessary to acquire or demonstrate professional competency. ()

215. NONRESIDENT PIC REGISTRATION TO PRACTICE PHARMACY INTO IDAHO.

To be registered as a nonresident PIC, an applicant must submit an application on a Board form including, but not limited to: ()

01. Individual License Information. Current pharmacist licensure information in all other states, including each state of licensure and each license number; ()

02. Facility License Information. The license or registration number of the facility for which the applicant will be practicing. ()

216. PHARMACIST INTERN REGISTRATION.

01. Registration Requirements. To be approved for and maintain registration as a pharmacist intern, the applicant must: ()

a. Currently be enrolled and in good standing in an accredited school or college of pharmacy, pursuing a professional degree in pharmacy; or ()

b. Be a graduate of an accredited school or college of pharmacy within the United States and awaiting examination for pharmacist licensure; or ()

c. Be a graduate of a school or college of pharmacy located outside the United States, obtain certification by the FPGEC, and be awaiting finalization of pharmacist licensure. ()

02. Renewal. ()

a. Current Students. A pharmacist intern registration must be renewed annually by July 15; however, the renewal fee will be waived, if renewed on time, for the duration of the student’s enrollment in the school or college of pharmacy. Following graduation, if a pharmacist license application has been submitted, the pharmacist intern license will be extended at no cost for up to six (6) additional months from the date of application as a pharmacist, after which time the individual will need to submit a new application to continue to be a pharmacist intern. ()

b. Pharmacy Graduates. A graduate pharmacist intern registration may be obtained and renewed once within one (1) year from the date of issuance. The Board may, at its discretion, grant additional time to complete internship experience if unique circumstances present. ()

217. – 219. (RESERVED)

220. TECHNICIAN REGISTRATION.

01. Registration Requirements. A person may apply for registration as a technician if the person satisfies the following requirements: ()

a. Age. Be at least sixteen (16) years of age. ()

b. Exemption from Criminal Background Check. Technician candidates under the age of eighteen (18) are exempt from the fingerprint-based criminal history check requirement of Idaho Code. ()

02. Certified Technician Registration. To be approved for registration as a certified technician, a person must have obtained and maintained certified pharmacy technician (CPhT) status through the Pharmacy Technician Certification Board (PTCB), the National Healthcareer Association (NHA), or their successors. ()

221. – 223. (RESERVED)

224. PRACTITIONER CONTROLLED SUBSTANCE REGISTRATION.

Any practitioner in Idaho who intends to prescribe, administer, dispense, or conduct research with a controlled

substance must first obtain an Idaho practitioner controlled substance registration and: ()

- 01. State License.** Hold a valid license or registration to prescribe medications from a licensing entity established under Title 54, Idaho Code. ()
- 02. DEA Registration.** Obtain a valid federal DEA registration, if needed under federal law. ()
 - a.** Failure to obtain a federal DEA registration for any reason within forty-five (45) days of the issuance of the Idaho Practitioner Controlled Substance Registration will result in automatic cancellation. ()

225. – 229. (RESERVED)

230. DRUG OUTLET LICENSURE AND REGISTRATION: GENERAL REQUIREMENTS.

A license or a certificate of registration is required for drug outlets prior to doing business in or into Idaho. A license or certificate of registration will be issued by the Board to drug outlets pursuant to, and in the general classifications defined by, Section 54-1729, Idaho Code. ()

01. New Drug Outlet Inspections. Following the issuance of a new license or registration, each drug outlet will be inspected to confirm that the facility is compliant with applicable law. A change of ownership of a currently registered pharmacy will not require an onsite inspection of a new pharmacy registration unless a change of location occurs. ()

02. License and Registration Transferability. Drug outlet licenses and registrations are location and owner specific and are nontransferable as to person or place. ()

03. Nonresident Drug Outlet. The Board may license or register a drug outlet licensed or registered under the laws of another state if the other state’s standards are comparable to those in Idaho and acceptable to the Board, evidenced by an inspection report. ()

04. Change of Location. At least ten (10) days prior to the event, the registrant must notify the Board of a drug outlet’s change of location through the completion of an application for a new license or registration. When a licensee or registrant has made a timely and complete application for a new license or registration, the existing license does not expire until the application has been finally determined by the Board, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the Board order. This does not preclude the Board from taking immediate action to protect the public interest. ()

05. Change of Ownership. The registrant must notify the Board of a drug outlet’s change of ownership within thirty (30) days of the event on a Board form. ()

06. Permanent Closing. A registrant must notify the Board and the general public of the pharmacy’s permanent closing at least ten (10) days prior to closing. The notice must include the proposed date of closure, and the new location of the prescription files. The notice to the board is to include the location where the closing inventory record of controlled substances is retained. ()

07. Exemption from Separate Controlled Substance Registration. All drug outlets doing business in or into Idaho who hold a valid license or registration from the Board are exempt from obtaining a separate controlled substance registration, but are subject to compliance with all requirements under Title 37, Chapter 27, Idaho Code. ()

08. Sterile Preparation Endorsement. A drug outlet engaged in sterile preparation must obtain a single endorsement for one (1) or more hood or aseptic environmental control devices. ()

231. -- 239. (RESERVED)

240. WHOLESALE LICENSURE AND REGISTRATION.

- 01. Wholesaler Licensure.** The following information must be provided under oath by each applicant

for wholesaler licensure as part of the initial licensing procedure and for each renewal on a Board form: ()

a. Any felony conviction or any conviction of the applicant relating to wholesale or retail prescription drug distribution or distribution of controlled substances. ()

b. Any discipline of the applicant by a regulatory agency in any state for violating any law relating to wholesale or retail prescription drug distribution or distribution of controlled substances. ()

02. NABP Accreditation. The Board will recognize a wholesaler’s accreditation by NABP for purposes of reciprocity and satisfying the new drug outlet inspection requirements of these rules. ()

03. Wholesaler Registration. Except when licensed pursuant to the Idaho Wholesale Drug Distribution Act and these rules, a wholesaler that engages in wholesale distribution of DME supplies, prescription medical devices, or products that contain pseudoephedrine in or into Idaho must be registered by the Board. ()

241. – 249. (RESERVED)

250. MANUFACTURER REGISTRATION. Manufacturers must be registered as follows: ()

01. Mail Service Pharmacy. Those that ship, mail, or deliver dispensed prescription drugs or devices to an Idaho resident will be registered by the Board as a mail service pharmacy. ()

02. Manufacturer. Those engaged in wholesale distribution will be registered as a manufacturer and comply with the Idaho Wholesale Drug Distribution Act and rules, as applicable. ()

251. – 299. (RESERVED)

SUBCHAPTER C – DRUG OUTLET PRACTICE STANDARDS
(Rules 300 through 399)

300. DRUG OUTLETS: MINIMUM FACILITY STANDARDS. A resident drug outlet that dispenses prescription drugs to patients in Idaho must meet the following minimum requirements: ()

01. Security and Privacy. A drug outlet must be constructed and equipped with adequate security to protect its equipment, records and supply of drugs, devices and other restricted sale items from unauthorized access, acquisition or use. All protected health information must be stored and maintained in accordance with HIPAA. ()

02. Controlled Substance Storage. Drug outlets must store controlled substances in accordance with federal law. ()

03. Authorized Access to the Restricted Drug Storage Area. Access to the restricted drug storage area must be limited to authorized personnel. ()

04. Staffing. A drug outlet must be staffed sufficiently to allow for appropriate supervision, to otherwise operate safely and, if applicable, to remain open during the hours posted as open to the public for business. ()

05. Electronic Recordkeeping System. A drug outlet that dispenses more than twenty (20) prescriptions per day must use an electronic recordkeeping system to establish and store patient medication records and prescription drug order, refill, transfer information, and other information necessary to provide safe and appropriate patient care. The electronic recordkeeping system must have audit trail functionality that documents for each prescription drug order the identity of each individual involved at each step of its processing, filling, and dispensing or, alternatively, the identity of the pharmacist or prescriber responsible for the accuracy of these

processes. ()

301. DRUG OUTLETS THAT DISPENSE PRESCRIPTION DRUGS: MINIMUM PRESCRIPTION FILLING REQUIREMENTS.

Unless exempted by these rules, each drug outlet that dispenses prescription drugs to patients in Idaho must meet the following minimum requirements either at the drug outlet or through offsite pharmacy services: ()

01. Valid Prescription Drug Order. Prescription drugs may only be dispensed pursuant to a valid prescription drug order as set forth in Subchapter E of these rules. ()

02. Prospective Drug Review. Prospective drug review must be provided. ()

03. Labeling. Each drug must bear a complete and accurate label as set forth in these rules. ()

04. Verification of Dispensing Accuracy. Verification of dispensing accuracy must be performed to compare the drug stock selected to the drug prescribed. If not performed by a pharmacist or prescriber, an electronic verification system must be used that confirms the drug stock selected to fill the prescription is the same as indicated on the prescription label. A compounded drug may only be verified by a pharmacist or prescriber. ()

05. Patient Counseling. Counseling must be provided. ()

302. DRUG OUTLETS THAT DISPENSE DRUGS TO PATIENTS WITHOUT AN ONSITE PHARMACIST OR PRESCRIBER.

A drug outlet that dispenses drugs to patients in Idaho that does not have a pharmacist or prescriber onsite to perform or supervise pharmacy operations must comply with the following requirements: ()

01. Security and Access. Maintain adequate video surveillance of the facility and retain a high quality recording for a minimum of thirty (30) days. ()

02. Technology. The video or audio communication system used to counsel and interact with each patient or patient’s caregiver, must be clear, secure, and HIPAA-compliant. ()

03. Technical Limitation Closure. The drug outlet must be, or remain, closed to the public if any component of the surveillance or video and audio communication system is malfunctioning, until system corrections or repairs are completed. ()

04. Exemption for Self-Service Systems. A self-service ADS that is operating as a drug outlet is exempt from the video surveillance requirement and the self-inspection requirement of this rule. In addition, if counseling is provided by an onsite prescriber or pharmacist, a self-service ADS is exempt from the video and audio communication system requirements of this rule. ()

05. Exemption for Veterinarians. Veterinarians practicing in accordance with their Idaho practice act are exempt from this rule. ()

303. DRUGS STORED OUTSIDE OF A DRUG OUTLET FOR RETRIEVAL BY A LICENSED HEALTH PROFESSIONAL.

Drugs may be stored in an alternative designated area outside the drug outlet, including, but not limited to, floor stock, in an emergency cabinet, in an emergency kit, or as emergency outpatient drug delivery from an emergency room at a registered institutional facility, provided the following conditions are met: ()

01. Supervising Drug Outlet. Drugs stored in such a manner must remain under the control of, and be routinely monitored by, the supervising drug outlet. ()

02. Secure Storage. The area is appropriately equipped to ensure security and protection from diversion or tampering. ()

03. Controlled Substances. Controlled substances may only be stored in an alternative designated area

as permitted by, and in accordance with, federal law. ()

04. Stocking and Replenishing. Stocking or replenishing drugs in an alternative designated area may be performed by a pharmacist or prescriber, or by appropriate support personnel using either an electronic verification system or a two (2) person checking system. ()

304. – 349. (RESERVED)

SUBCHAPTER D – RULES GOVERNING PHARMACIST PRESCRIPTIVE AUTHORITY
(Rules 350 through 399)

350. PHARMACIST PRESCRIBING: GENERAL REQUIREMENTS.

In accordance with Section 54-1705, Idaho Code, a pharmacist may independently prescribe provided the following general requirements are met by the pharmacist: ()

01. Education. Only prescribe drugs or devices for conditions for which the pharmacist is educationally prepared and for which competence has been achieved and maintained. ()

02. Patient-Prescriber Relationship. Only issue a prescription for a legitimate medical purpose arising from a patient-prescriber relationship as defined in Section 54-1733, Idaho Code. ()

03. Patient Assessment. Obtain adequate information about the patient’s health status to make appropriate decisions based on the applicable standard of care and the best available evidence. ()

04. Collaboration with Other Health Care Professionals. Recognize the limits of the pharmacist’s own knowledge and experience and consult with and refer to other health care professionals as appropriate. ()

05. Documentation. Maintain documentation adequate to justify the care provided including, but not limited to, the information collected as part of the patient assessment, the prescription record, provider notification, and the follow-up care plan. ()

06. Prescribing Exemption. The general requirements set forth in this section do not apply to collaborative pharmacy practice agreements, devices, and nonprescription drugs. ()

351. COLLABORATIVE PHARMACY PRACTICE.

Collaborative pharmacy practice may be performed in accordance with an agreement that identifies the parties to the agreement, the pharmacist’s scope of practice authorized, and if necessary, any monitoring parameters. ()

352. -- 399. (RESERVED)

SUBCHAPTER E – FILLING AND DISPENSING PRESCRIPTION DRUGS
(Rules 400 through 499)

400. PRESCRIPTION DRUG ORDER: VALIDITY.

Prior to filling or dispensing a prescription drug order, a pharmacist must verify its validity. ()

01. Invalid Prescription Drug Orders. A prescription drug order is invalid if not issued by a licensed prescriber for a legitimate medical purpose, and within the course and scope of the prescriber’s professional practice and prescriptive authority. ()

02. Antedating or Postdating. A prescription drug order is invalid if antedated or postdated. ()

03. Tampering. A prescription drug order is invalid if, at the time of presentation, it shows evidence of alteration, erasure, or addition by any person other than the person who wrote it. ()

04. Prescriber Self-Use. A prescription drug order written for a controlled substance is invalid if written for the prescriber's own use. ()

05. Digital Image Prescriptions. A digital image of a prescription drug order is invalid if it is for a controlled substance or if the patient intends to pay cash for the drug in whole. ()

401. PRESCRIPTION DRUG ORDER: MINIMUM REQUIREMENTS.

A prescription drug order must comply with applicable requirements of federal law and, except as differentiation is permitted for an institutional drug order, include at least the following: ()

01. Patient's Name. The patient's or authorized entity's name and: ()

a. If for a controlled substance, the patient's full name and address; and ()

b. If for an animal, the species. ()

02. Date. The date issued. ()

03. Drug Information. The drug name, strength, and quantity. ()

04. Directions. The directions for use. ()

05. Prescriber Information. The name and, if for a controlled substance, the address and DEA registration number of the prescriber. ()

06. Signature. A signature sufficient to evidence a valid prescription of either the prescriber or, if a renewal of a previous prescription, the prescriber's agent, when authorized by the prescriber. ()

07. Institutional Drug Order Exemptions. An institutional drug order may exempt the patient's address, the dosage form, quantity, prescriber's address, and prescriber's DEA registration number. ()

08. Exemptions for Non-Controlled Substances. A prescriber may omit drug information and directions and make an indication for the pharmacist to finalize the patient's drug therapy plan. ()

402. FILLING PRESCRIPTION DRUG ORDERS: PRACTICE LIMITATIONS.

01. Drug Product Selection. Drug product selection is allowed only between therapeutic equivalent drugs. If a prescriber orders by any means that a brand name drug must be dispensed, then no drug product selection is permitted. ()

02. Partial Filling. A prescription drug order may be partially filled within the limits of federal law. The total quantity dispensed in partial fillings must not exceed the total quantity prescribed. ()

03. Refill Authorization. A prescription drug order may be refilled when permitted by state and federal law and as specifically authorized by the prescriber. A pharmacist may also refill a prescription for a non-controlled drug to ensure continuity of care. ()

403. FILLING PRESCRIPTION DRUG ORDERS: ADAPTATION.

A pharmacist may adapt drugs as specified in this rule. ()

01. Change Quantity. A pharmacist may change the quantity of medication prescribed if: ()

a. The prescribed quantity or package size is not commercially available; ()

b. The change in quantity is related to a change in dosage form, strength, or therapeutic interchange; ()

c. The change is intended to dispense up to the total amount authorized by the prescriber including refills; or ()

d. The change extends a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program. ()

02. Change Dosage Form. A pharmacist may change the dosage form of the prescription if it is in the best interest of patient care, so long as the prescriber's directions are also modified to equate to an equivalent amount of drug dispensed as prescribed. ()

03. Complete Missing Information. A pharmacist may complete missing information on a prescription if there is evidence to support the change. ()

04. Documentation. The adaption must be documented in the patient's record. ()

404. FILLING PRESCRIPTION DRUG ORDERS: DRUG PRODUCT SUBSTITUTION.

Drug product substitutions in which a pharmacist dispenses a drug product other than that prescribed are allowed only as follows: ()

01. Hospital. Pursuant to a formulary or drug list prepared by the pharmacy and therapeutics committee of a hospital; ()

02. Institutional Facility. At the direction of the quality assessment and assurance committee of an institutional facility; ()

03. Biosimilars. A pharmacist may substitute an interchangeable biosimilar product for a prescribed biological product if: ()

a. The biosimilar has been determined by the FDA to be interchangeable and published in the Purple Book; ()

b. The name of the drug and the manufacturer or the NDC number is documented in the patient medical record. ()

04. Therapeutic Interchange. A pharmacist may substitute a drug with another drug in the same therapeutic class, provided the substitution lowers the cost to the patient or occurs during a drug shortage. ()

405. FILLING PRESCRIPTION DRUG ORDERS: TRANSFERS.

A prescription drug order may be transferred within the limits of federal law. Drug outlets using a common electronic file are exempt from transfer limits. ()

406. LABELING STANDARDS.

All prescription drugs must be in an appropriate container and bear information that identifies the drug product, any additional components as appropriate, and the individual responsible for its final preparation. ()

01. Standard Prescription Drug. A prescription drug for outpatient dispensing must be labeled in accordance with federal law. ()

02. Parenteral Admixture. If one (1) or more drugs are added to a parenteral admixture, the admixture's container must include the date and time of the addition, or alternatively, the beyond use date. ()

03. Prepackaged Product. The containers of prepackaged drugs must include an expiration date that is the lesser of the manufacturer's original expiration date, one (1) year from the date the drug is prepackaged, or a shorter period if warranted. ()

04. Repackaged Drug. If a previously dispensed drug is repackaged, it must contain the serial number and contact information for the original dispensing pharmacy, as well as a statement that indicates that the drug has

been repackaged, and the contact information of the repackaging pharmacy. ()

05. Distributed Compounded Drug Product. Compounded and sterile prepackaged drug product distributed in the absence of a patient specific prescription must be labeled as follows: ()

a. If from a pharmacy, the statement: “not for further dispensing or distribution.” ()

b. If from an outsourcing facility, the statements: “office use only” and “not for resale.” ()

407. PRESCRIPTION DELIVERY: RESTRICTIONS.

01. Acceptable Delivery. A drug outlet that dispenses drugs to patients in Idaho may deliver filled prescriptions in accordance with federal law, as long as appropriate measures are taken to ensure product integrity and safety. ()

02. Pick-up or Return by Authorized Personnel. Filled prescriptions may be picked up for or returned from delivery by authorized personnel from a secured delivery area. ()

408. DESTRUCTION OR RETURN OF DRUGS OR DEVICES: RESTRICTIONS.

A drug outlet registered with the DEA as a collector may collect controlled and non-controlled drugs for destruction in accordance with applicable federal law. Otherwise a dispensed drug or prescription device may only be accepted for return as follows: ()

01. Potential Harm. When the pharmacist determines that harm could result if the drug is not returned. ()

02. Did Not Reach Patient. Non-controlled drugs that have been maintained in the custody and control of the institutional facility, dispensing pharmacy, or their related clinical facilities may be returned if product integrity can be assured. Controlled substances may only be returned from a hospital daily delivery system under which a pharmacy dispenses no more than a seventy-two (72) hour supply for a drug order. ()

03. Donation. Those that qualify for return under the provisions of the Idaho Legend Drug Donation Act as specified in Section 54-1762, Idaho Code. ()

409. -- 499. (RESERVED)

SUBCHAPTER F – REPORTING REQUIREMENTS AND DRUG OUTLET RECORDKEEPING
(Rules 500 through 599)

500. RECORDKEEPING: MAINTENANCE AND INVENTORY REQUIREMENTS.

01. Records Maintenance and Retention Requirement. Unless an alternative standard is stated for a specified record type, form, or format, records required to evidence compliance with statutes or rules enforced by the Board must be maintained and retained in a readily retrievable form and location for at least three (3) years from the date of the transaction. ()

02. Prescription Retention. A prescription drug order must be retained in a readily retrievable manner by each drug outlet and maintained in accordance with federal law: ()

03. Inventory Records. Each drug outlet must maintain a current, complete and accurate record of each controlled substance manufactured, imported, received, ordered, sold, delivered, exported, dispensed or otherwise disposed of by the registrant. Drug outlets must maintain inventories and records in accordance with federal law. An annual inventory must be conducted at each registered location no later than seven (7) days after the date of the most recent inventory in a form and manner that satisfies the inventory requirements of federal law. Drugs stored outside a drug outlet in accordance with these rules must be regularly inventoried and inspected to ensure that they are properly stored, secured, and accounted for. Additional inventories are necessary when required by federal law. ()

04. Rebuttal Presumption of Violation. Evidence of an amount of a controlled substance that differs from the amount reflected on a record or inventory required by state or federal law creates a rebuttable presumption that the registrant has failed to keep records or maintain inventories in conformance with the recordkeeping and inventory requirements of state and federal law. ()

05. Drug Distributor Records. Wholesalers and other entities engaged in wholesale drug distribution must maintain inventories and records or transactions pertaining to the receipt and distribution or other disposition of drugs in accordance with federal law that include at least: ()

a. The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped; ()

b. The identity and quantity of the drugs received and distributed or disposed of; ()

c. The dates of receipt and distribution or other disposition of the drugs; and ()

d. Controlled substance distribution invoices, in the form and including the requirements of federal law. ()

06. Central Records Storage. Records may be retained at a central location in compliance with federal law. ()

07. Electronic Records Storage. Records may be electronically stored and maintained if they remain legible and are in a readily retrievable format, and if federal law does not require them to be kept in a hard copy format. ()

501. REPORTING REQUIREMENTS.

01. Theft or Loss of Controlled Substances. A registrant must report to the Board on the same day reported to the DEA a theft or loss of a controlled substance that includes the information required by federal law. ()

02. Individual and Outlet Information Changes. Changes in employment or changes to information provided on or with the initial or renewal application must be reported to the Board within ten (10) days of the change. ()

03. Drug Distributor Monthly Reports. An authorized distributor must report specified data on drugs distributed at least monthly to the Board in a form and manner prescribed by the Board. ()

502. -- 599. (RESERVED)

SUBCHAPTER G – PRESCRIPTION DRUG MONITORING PROGRAM REQUIREMENTS
(Rules 600 through 699)

600. CONTROLLED SUBSTANCES: PDMP. Specified data on controlled substances must be reported by the end of the next business day by all drug outlets that dispense controlled substances in or into Idaho and prescribers that dispense controlled substances to humans. ()

01. Online Access to PDMP. To obtain online access, a prescriber or pharmacist, or their delegate must complete and submit a registration application and agree to adhere to the access restrictions and limitations established by law. ()

02. Use Outside Scope of Practice. Information obtained from the PDMP must not be used for purposes outside the prescriber's or pharmacist's scope of professional practice. A delegate may not access the PDMP outside of their supervisor's scope of professional practice. ()

03. Profile Requests. Authorized persons without online access may obtain a profile by completing a Board form and submitting it to the Board office with proof of identification and other credentials necessary to confirm the requestor’s authorized status pursuant to Section 37-2726, Idaho Code. ()

601. – 699. (RESERVED)

SUBCHAPTER H – RULES GOVERNING DRUG COMPOUNDING
(Rules 700 through 799)

700. COMPOUNDING DRUG PREPARATIONS.

Any compounding that is not permitted herein is considered manufacturing. ()

01. Application. This rule applies to any person, including any business entity, authorized to engage in the practice of non-sterile compounding, sterile compounding, and sterile prepackaging of drug products in or into Idaho, except these rules do not apply to: ()

a. Compound positron emission tomography drugs; ()

b. Radiopharmaceutics; ()

c. The reconstitution of a non-sterile drug or a sterile drug for immediate administration; ()

d. The addition of a flavoring agent to a drug product; and ()

e. Product preparation of a non-sterile, non-hazardous drug according to the manufacturer's FDA approved labeling. ()

02. General Compounding Standards. ()

a. Active Pharmaceutical Ingredients. All active pharmaceutical ingredients must be obtained from an FDA registered manufacturer. FDA registration as a foreign manufacturer satisfies this requirement. ()

b. Certificate of Analysis (COA). Unless the active pharmaceutical ingredient complies with the standards of an applicable USP-NF monograph, a COA must be obtained for all active pharmaceutical ingredients procured for compounding and retained for a period of not less than three (3) years from the date the container is emptied, expired, returned, or disposed of. The following minimum information is necessary on the COA: product name, lot number, expiration date, and assay. ()

c. Equipment. Equipment and utensils must be of suitable design and composition and cleaned, sanitized, or sterilized as appropriate prior to use. ()

d. Disposal of Compromised Drugs. When the correct identity, purity, strength, and sterility of ingredients and components cannot be confirmed (in cases of, for example, unlabeled syringes, opened ampoules, punctured stoppers of vials and bags, and containers of ingredients with incomplete labeling) or when the ingredients and components do not possess the expected appearance, aroma, and texture, they must be removed from stock and isolated for return, reclamation, or destruction. ()

03. Prohibited Compounding. Compounding any drug product for human use that the FDA has identified as presenting demonstrable difficulties in compounding or has withdrawn or removed from the market for safety or efficacy reasons is prohibited. ()

04. Limited Compounding. ()

a. Triad Relationship. A pharmacist may compound a drug product in the usual course of professional practice for an individual patient pursuant to an established prescriber/patient/pharmacist relationship and a valid prescription drug order. ()

b. Commercially Available Products. A drug product that is commercially available may only be compounded if not compounded regularly or in inordinate amounts and if: ()

i. It is medically warranted to provide an alternate ingredient, dosage form, or strength of significance; or ()

ii. The commercial product is not reasonably available in the market in time to meet the patient's needs. ()

c. Anticipatory Compounding. Limited quantities of a drug product may be compounded or sterile prepackaged prior to receiving a valid prescription drug order based on a history of receiving valid prescription drug orders for the compounded or sterile prepackaged drug product. ()

05. Drug Compounding Controls. ()

a. Policies and Procedures. In consideration of the applicable provisions of USP Chapter 795 concerning pharmacy compounding of non-sterile preparations, USP Chapter 797 concerning sterile preparations, Chapter 1075 of the USP-NF concerning good compounding practices, and Chapter 1160 of the USP-NF concerning pharmaceutical calculations, policies and procedures for the compounding or sterile prepackaging of drug products must ensure the safety, identity, strength, quality, and purity of the finished product, and must include any of the following that are applicable to the scope of compounding practice being performed: ()

i. Appropriate packaging, handling, transport, and storage requirements; ()

ii. Accuracy and precision of calculations, measurements, and weighing; ()

iii. Determining ingredient identity, quality, and purity; ()

iv. Labeling accuracy and completeness; ()

v. Beyond use dating; ()

vi. Auditing for deficiencies, including routine environmental sampling, quality and accuracy testing, and maintaining inspection and testing records; ()

vii. Maintaining environmental quality control; and ()

viii. Safe limits and ranges for strength of ingredients, pH, bacterial endotoxins, and particulate matter. ()

b. Accuracy. Components including, but not limited to, bulk drug substances, used in the compounding or sterile prepackaging of drug products must be accurately weighed, measured, or subdivided, as appropriate. The amount of each active ingredient contained within a compounded drug product must not vary from the labeled potency by more than the drug product's acceptable potency range listed in the USP-NF monograph for that product. If USP-NF does not publish a range for a particular drug product, the active ingredients must not contain less than ninety percent (90%) and not more than one hundred ten percent (110%) of the potency stated on the label. ()

c. Non-Patient Specific Records. Except for drug products that are being compounded or sterile prepackaged for direct administration, a production record of drug products compounded or sterile prepackaged in anticipation of receiving prescription drug orders or distributed in the absence of a patient specific prescription drug order ("office use") solely as permitted in these rules, must be prepared and kept for each drug product prepared, including: ()

i. Production date; ()

- ii. Beyond use date; ()
- iii. List and quantity of each ingredient; ()
- iv. Internal control or serial number; and ()
- v. Initials or unique identifier of all persons involved in the process or the compounder responsible for the accuracy of these processes. ()

701. STERILE PREPARATION.

01. Application. In addition to all other applicable rules in this chapter, including the rules governing Compounding Drug Preparations, these rules apply to all persons, including any business entity, engaged in the practice of sterile compounding and sterile prepackaging in or into Idaho. ()

02. Dosage Forms Requiring Sterility. The sterility of compounded biologics, diagnostics, drugs, nutrients, and radiopharmaceuticals must be maintained or the compounded drug preparation must be sterilized when prepared in the following dosage forms: ()

- a. Aqueous bronchial and nasal inhalations, except sprays and irrigations intended to treat nasal mucosa only; ()
- b. Baths and soaks for live organs and tissues; ()
- c. Injections (for example, colloidal dispersions, emulsions, solutions, suspensions); ()
- d. Irrigations for wounds and body cavities; ()
- e. Ophthalmic drops and ointments; and ()
- f. Tissue implants. ()

03. Compounder Responsibilities. Compounders and sterile prepackagers are responsible for ensuring that sterile products are accurately identified, measured, diluted, and mixed and are correctly purified, sterilized, packaged, sealed, labeled, stored, dispensed, and distributed, as well as prepared in a manner that maintains sterility and minimizes the introduction of particulate matter; ()

a. Unless following manufacturer’s guidelines or another reliable literature source, opened or partially used packages of ingredients for subsequent use must be properly stored as follows; ()

- i. Opened or entered single-dose containers, such as bags, bottles, syringes, and vials of sterile products and compounded sterile preparations are to be used within one (1) hour if opened in non-sterile conditions, and any remaining contents must be discarded; ()
- ii. Single-dose vials needle-punctured in a sterile environment may be used up to six (6) hours after initial needle puncture; ()
- iii. Opened single-dose ampules may not be stored for any time period; and ()
- iv. Multiple-dose containers that are formulated for removal of portions on multiple occasions because they contain antimicrobial preservatives, may be used for up to twenty-eight (28) days after initial opening or entering, unless otherwise specified by the manufacturer; ()

b. Water-containing compounded sterile products that are non-sterile during any phase of the compounding procedure must be sterilized within six (6) hours after completing the preparation in order to minimize the generation of bacterial endotoxins; ()

c. No food, drinks, or materials exposed in patient care and treatment areas may enter ante-areas, buffer areas, or segregated areas where components and ingredients of sterile preparations are prepared. ()

04. Environmental Controls. Except when prepared for immediate administration, the environment for the preparation of sterile preparations in a drug outlet must be in an isolated area, designed to avoid unnecessary traffic and airflow disturbances, and equipped to accommodate aseptic techniques and conditions. ()

a. Hoods and aseptic environmental control devices must be certified for operational efficiency as often as recommended by the manufacturer or at least every six (6) months or if relocated. ()

b. Filters must be inspected and replaced in accordance with the manufacturer’s recommendations. ()

05. Sterile Preparation Equipment. A drug outlet in which sterile preparations are prepared must be equipped with at least the following: ()

a. Protective apparel including gowns, masks, and sterile (or the ability to sterilize) non-vinyl gloves, unless written documentation can be provided from the aseptic isolator manufacturer that any component of garbing is not necessary; ()

b. A sink; ()

c. A refrigerator for proper storage of additives and finished sterile preparations prior to delivery when necessary; and ()

d. An appropriate laminar airflow hood or other aseptic environmental control device such as a laminar flow biological safety cabinet, or a comparable compounding area when authorized by USP Chapter 797. ()

06. Documentation Requirements. The following documentation must also be maintained by a drug outlet in which sterile preparations are prepared: ()

a. Justification of beyond use dates assigned, pursuant to direct testing or extrapolation from reliable literature sources; ()

b. Training records, evidencing that personnel are trained on a routine basis and are adequately skilled, educated, and instructed; ()

c. Audits appropriate for the risk of contamination for the particular sterile preparation including: ()

i. Visual inspection to ensure the absence of particulate matter in solutions, the absence of leakage from bags and vials, and the accuracy of labeling with each dispensing; ()

ii. Periodic hand hygiene and garbing competency; ()

iii. Media-fill test procedures (or equivalent), aseptic technique, and practice related competency evaluation at least annually by each compounder or sterile prepackager; ()

iv. Environmental sampling testing at least upon registration of a new drug outlet, following the servicing or re-certification of facilities and equipment, or in response to identified problems with end products, staff techniques or patient-related infections, or every six (6) months. ()

v. Gloved fingertip sampling testing at least annually for personnel who compound low- and medium-risk level compounded sterile preparations and every six (6) months for personnel who compound high-risk level compounded sterile preparations. ()

- vi. Sterility testing of high risk batches of more than twenty-five (25) identical packages (ampules, bags, vials, etc.) before dispensing or distributing; ()
- d. Temperature, logged daily; ()
- e. Beyond use date and accuracy testing, when appropriate; and ()
- f. Measuring, mixing, sterilizing, and purification equipment inspection, monitoring, cleaning, and maintenance to ensure accuracy and effectiveness for their intended use. ()

07. Policy and Procedures Manual. Maintain a policy and procedures manual to ensure compliance with this rule. ()

702. HAZARDOUS DRUGS PREPARATION.

In addition to all other applicable rules in this chapter, including the rules governing Compounding Drug Preparations and Sterile Preparation, these rules apply to all persons, including any business entity, engaged in the practice of compounding or sterile prepackaging with hazardous drugs. Such persons must: ()

01. Ventilation. Ensure the storage and compounding areas have sufficient general exhaust ventilation to dilute and remove any airborne contaminants. ()

02. Ventilated Cabinet. Utilize a ventilated cabinet designed to reduce worker exposures while preparing hazardous drugs. ()

a. Sterile hazardous drugs must be prepared in a dedicated Class II biological safety cabinet or a barrier isolator of appropriate design to meet the personnel exposure limits described in product material safety data sheets; ()

b. When asepsis is not required, a Class I BSC, powder containment hood or an isolator intended for containment applications may be sufficient. ()

c. A ventilated cabinet that re-circulates air inside the cabinet or exhausts air back into the room environment is prohibited, unless: ()

i. The hazardous drugs in use will not volatilize while they are being handled; or ()

ii. Written documentation from the manufacturer attesting to the safety of such ventilation. ()

03. Clear Identification. Clearly identify storage areas, compounding areas, containers, and prepared doses of hazardous drugs. ()

04. Labeling. Label hazardous drugs with proper precautions, and dispense them in a manner to minimize risk of hazardous spills. ()

05. Protective Equipment and Supplies. Provide and maintain appropriate personal protective equipment and supplies necessary for handling hazardous drugs, spills and disposal. ()

06. Contamination Prevention. Unpack, store, prepackage, and compound hazardous drugs separately from other inventory in a restricted area in a manner to prevent contamination and personnel exposure until hazardous drugs exist in their final unit-of-use packaging. ()

07. Compliance With Laws. Comply with applicable local, state, and federal laws including for the disposal of hazardous waste. ()

08. Training. Ensure that personnel working with hazardous drugs are trained in hygiene, garbing, receipt, storage, handling, transporting, compounding, spill control, clean up, disposal, dispensing, medical surveillance, and environmental quality and control. ()

09. Policy and Procedures Manual. Maintain a policy and procedures manual to ensure compliance with this rule. ()

703. OUTSOURCING FACILITY.

01. Federal Act Compliance. An outsourcing facility must ensure compliance with 21 U.S.C. Section 353b of the Federal Food, Drug and Cosmetic Act. ()

02. Adverse Event Reports. Outsourcing facilities must submit to the Board a copy of all adverse event reports submitted to the secretary of Health and Human Services in accordance with Section 310.305 of Title 21 of the Code of Federal Regulations. ()

704. – 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

DOCKET NO. 24-0000-2202F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

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 Section 67-2604, Idaho Code, and the following additional sections of Idaho Code:

IDAPA **24.01** – Section 54-308, Idaho Code;
IDAPA **24.04** – Section 54-2808, Idaho Code;
IDAPA **24.07** – Section 54-3003, Idaho Code;
IDAPA **24.08** – Sections 54-1106, 54-1107, Idaho Code;
IDAPA **24.18** – Section 54-4106, Idaho Code;
IDAPA **24.21** – Section 54-5206, Idaho Code;
IDAPA **24.22** – Section 54-5310, Idaho Code;
IDAPA **24.25** – Section 54-5403, Idaho Code;
IDAPA **24.28** – Section 54-5807, Idaho Code;
IDAPA **24.29** – Section 54-3107, Idaho Code;
IDAPA **24.30** – Section 54-204, Idaho Code;

IDAPA **24.32** – Sections 54-1208, 55-1606, Idaho Code;
IDAPA **24.37** – Section 54-2097, Idaho Code;
IDAPA **24.39** – Sections 54-1005, 54-1006, 54-2605, 54-2606, and 54-2607, Idaho Code; Sections 39-4107, 39-4112, 39-4113, 39-4302, and 39-4003, Idaho Code; Sections 44-2102, 44-2104, 44-2201, and 44-2202, Idaho Code; Section 39-8605, Idaho Code; Sections 54-1904, 54-1907, 54-1910, 54-4507, 54-4508, 54-5004, 54-5005, and 54-5006, Idaho Code; and Sections 55-2203 and 55-2208, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

<p>24.25.01, Rules of the Idaho Driving Businesses Licensure Board 24.30.01, Idaho Accountancy Rules</p>
<p>Tuesday, October 11, 2022 – 9:00 a.m. (MT); and Thursday, October 20, 2022 – 9:00 a.m. (MT)</p> <p>Division of Occupational and Professional Licenses Chinden Campus Building 4 – Coolwater Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

<p>24.08.01, Rules of the State Board of Morticians 24.28.01, Rules of the Barber and Cosmetology Services Licensing Board 24.29.01, Rules of Procedure of the Idaho Certified Shorthand Reporters Board</p>
<p>Tuesday, October 11, 2022 – 10:30 a.m. (MT) Division of Occupational and Professional Licenses Chinden Campus Building 4 – Coolwater Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

24.39.70, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

Thursday, October 13, 2022 – 9:00-11:00 a.m. (MT); and
Thursday, October 20, 2022 – 9:00-11:00 a.m. (MT)

Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Thunderbolt Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714

24.39.20, Rules Governing Plumbing

Thursday, October 13, 2022 – 11:00 a.m.-1:00 p.m. (MT); and
Thursday, October 20, 2022 – 11:00 a.m.-1:00 p.m. (MT)

Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Trinity Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714

- 24.01.01, Rules of the Board of Architectural Examiners**
- 24.04.01, Rules of the Board of Registration for Professional Geologists**
- 24.07.01, Rules of the Idaho State Board of Landscape Architects**
- 24.18.01, Rules of the Real Estate Appraiser Board**
- 24.21.01, Rules of the Idaho State Contractors Board**
- 24.22.01, Rules of the Idaho State Liquefied Petroleum Gas Safety Board**
- 24.32.01, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors**
- 24.37.01, Rules of the Idaho Real Estate Commission**
- 24.39.31, Rules for Modular Buildings**
- 24.39.40, Safety Rules for Elevators, Escalators, and Moving Walks**
- 24.39.50, Rules of the Public Works Contractors License Board**
- 24.39.90, Rules Governing the Damage Prevention Board**

Tuesday, October 25, 2022 – 2:00 p.m. (MT)
Division of Occupational and Professional Licenses
Chinden Campus Building 4 – Coolwater Room
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714

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 proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses that relate to occupations, building, construction, and real estate:

IDAPA 24

- 24.01.01, *Rules of the Board of Architectural Examiners;*
- 24.04.01, *Rules of the Board of Registration for Professional Geologists;*
- 24.07.01, *Rules of the Idaho State Board of Landscape Architects;*
- 24.08.01, *Rules of the State Board of Morticians;*
- 24.18.01, *Rules of the Real Estate Appraiser Board;*
- 24.21.01, *Rules of the Idaho State Contractors Board;*
- 24.22.01, *Rules of the Idaho State Liquefied Petroleum Gas Safety Board;*
- 24.25.01, *Rules of the Idaho Driving Businesses Licensure Board (ZBR Chapter Rewrite);*
- 24.28.01, *Rules of the Barber and Cosmetology Services Licensing Board;*
- 24.29.01, *Rules of Procedure of the Idaho Certified Shorthand Reporters Board;*
- 24.30.01, *Idaho Accountancy Rules (ZBR Chapter Rewrite);*
- 24.32.01, *Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors;*
- 24.37.01, *Rules of the Idaho Real Estate Commission;*
- 24.39.20, *Rules Governing Plumbing (ZBR Chapter Rewrite);*
- 24.39.31, *Rules for Factory Built Structures;*
- 24.39.40, *Safety Rules for Elevators, Escalators, and Moving Walks;*
- 24.39.50, *Rules of the Public Works Contractors License Board;*
- 24.39.70, *Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems (ZBR Chapter Rewrite);* and
- 24.39.90, *Rules Governing the Damage Prevention Board (Adding false reporting of an emergency locate as a basis for the imposition of a civil penalty).*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.01.01, Rules of the Board of Architectural Examiners – Fees are established in accordance with Section 54-313, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Examination	Established by NCARB
Application	\$25
Annual renewal	\$50
Endorsement license	\$50
Temporary license	\$50
Reinstatement	As provided in Section 67-2614, Idaho Code

24.04.01, Rules of the Board of Registration for Professional Geologists – Fees established in accordance with Sections 54-2813, 54-2814, & 54-2816, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$100
Initial Certificate	\$20
Annual Renewal	\$60
Annual Renewal for Registrants Seventy (70) Years of Age or Older	One-half (1/2) of the current renewal fee
Reinstatement	As provided in Section 67-2614, Idaho Code
Duplicate Certificate	\$20
Examination	Set by ASBOG

24.07.01, Rules of the Idaho State Board of Landscape Architects – Fees are established in accordance with Section 54-3003, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$75
Landscape Architect-in-training Application	\$25
Examination	As established by CLARB
Original License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

24.08.01, Rules of the State Board of Morticians – Fees are established in accordance with Section 54-1115, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85
Funeral Establishment	\$125
Crematory Establishment	\$200
Mortician	\$85
Inactive License	\$40
Resident Trainee	\$50
Application Fee	\$100
Certificate of Authority	\$50

24.18.01, Rules of the Real Estate Appraiser Board – Fees established in accordance with Sections 54-4113, 54-4124, & 54-4134, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$200	
License	\$100*	\$275*
AMC Registration	\$1,000**	\$900**
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application for Reciprocity	\$200	
Original License via Reciprocity	\$100*	
Temporary Permit	\$75	
Trainee Registration	\$50	
Continuing Education Provider Application	\$100	
Examination and Re-examination	As charged by the provider	

24.21.01, Rules of the Idaho State Contractors Board – Fees are established in accordance with Sections Section 54-5207, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application (includes original registration)	\$50
Reciprocal	\$50
Renewal	\$50
Reinstatement	\$35
Inactive	\$0
Inactive to Active License	The difference between the inactive fee and active license renewal fee

24.22.01, Rules of the Idaho State Liquefied Petroleum Gas Safety Board – Fees are established in accordance with Sections 54-5313 and 54-5308, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$30	
Individual License	\$75	\$75
Endorsement	\$75	
Dealer-in-training	\$50	
Facility License	\$100	\$100
Bulk Storage Facility	\$400	\$400
Facility Re-inspection	\$125	

24.25.01, Rules of the Idaho Driving Businesses Licensure Board – Fees are established in accordance with Section 54-5404, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Original Instructor License and Annual Renewal	\$25
Instructor Apprentice Permit	\$25
Original Business License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

24.28.01, Rules of the Barber and Cosmetology Services Licensing Board – Fees are established in accordance with Section 54-5822, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Original License for Individual Licenses	\$25	\$25
Application	\$25	
Instructor License	\$30	\$30
Original License for Establishments	\$20	\$20
Original License for Schools	\$300	\$85
Original License or Registration for Facilities	\$20	\$20
Registration for Apprentice	\$25	
Certificate for Makeup Artist	\$25	\$25
License by Endorsement	\$35	
Reinstatement	\$35	
Examination	As set by the Administrator	

24.29.01, Rules of Procedure of the Idaho Certified Shorthand Reporters Board – Fees are established in accordance with Section 54-3110, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Examination	\$50
Renewal	\$75
Examination Preparation Materials	\$20

24.30.01, Idaho Accountancy Rules – Fees are established in accordance with Section 54-212, Idaho Code, as follows:

Exam/License	Initial Fee
Initial Exam	\$100
Re-Exam	\$50
Active License	\$120
Inactive or Retired License	\$100
Reciprocity	\$175 + license fee
International Reciprocity	\$175 + license fee
Transfer of Grades	\$175 + license fee
Reinstatement License	Sum of unpaid license fees for the preceding 3 license renewal cycles
Re-entry License	\$20
Firm Registration	\$20 firm plus \$5 per licensee up to \$200 maximum

Category	Fee
Interstate Exchange of Information	\$10
Wall Certificate	\$20

Category	Fee
Late License Renewal	\$100
Non-compliance with CPE Filing:	
February	\$100
March	\$150
April	\$200
May	\$250
June	\$300
Non-compliance with Firm Registration	\$100 per licensee

24.32.01, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors – Fees are established in accordance with Sections 54-1213, 54-1215, 54-1219, and 54-1221, Idaho Code, as follows:

- Licensure as a professional engineer or professional land surveyor by examination;
- Reinstatement of a retired or expired license;
- Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying;
- Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities; and
- Licensure for professional engineers or professional land surveyors by comity.

24.37.01, Rules of the Idaho Real Estate Commission – Fees are established in accordance with Section 54-2020, Idaho Code, as follows:

	Initial License	Renewal	Late Fee	Other
Broker	\$160	\$160	\$25	
Salesperson	\$160	\$160	\$25	
Business Entity	\$50	\$50	\$25	
Branch Office	\$50	\$50	\$25	
Cooperative License	\$100			
Education History				\$10
License Certificate				\$15

IDAPA 24.39 – Fees are established in accordance with the following sections of Idaho Code, and relate to licensing and related administrative fees, fees to purchase permits or for the performance of inspections on various types of construction installations, or the assessment of civil penalties for non-compliance with applicable statutes:

I.C. § 39-4004	I.C. § 39-4107	I.C. § 39-4112	I.C. § 39-4113
I.C. § 39-4303	I.C. § 39-8605	I.C. § 39-8616	I.C. § 44-2103
I.C. § 44-2107	I.C. § 44-2202	I.C. § 54-1005	I.C. § 54-1006
I.C. § 54-1013	I.C. § 54-1014	I.C. § 54-2614	I.C. § 54-2616
I.C. § 54-2606	I.C. § 54-2607	I.C. § 54-2623	I.C. § 54-1907
I.C. § 54-1910	I.C. § 54-1912	I.C. § 54-4510	I.C. § 54-5005
I.C. § 54-5006	I.C. § 54-5012	I.C. § 54-5013	I.C. § 54-5017
I.C. § 54-5022	I.C. § 55-2203	I.C. § 55-2211	I.C. § 67-2601A

The fees are designated in the following sections of administrative rule for their respective boards:

- **24.39.20.500, Rules Governing Plumbing;**
- **24.39.31.102, Rules for Factory Built Structures;**
- **24.39.40.011, Safety Rules for Elevators, Escalators, and Moving Walks;**
- **24.39.50.201, Rules of the Public Works Contractors License Board;**
- **24.39.70.500, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems;**
- **24.39.90.007, Rules Governing the Damage Prevention Board.**

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 is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

Negotiated rulemaking conducted outside of this omnibus rulemaking was published under docket 24-ZBRR-2201 in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, pages 73-77](#) and affects the following rule chapters included in this proposed rulemaking listed below:

- 24.25.01, *Rules of the Idaho Driving Businesses Licensure Board;*
- 24.30.01, *Idaho Accountancy Rules;*
- 24.39.20, *Rules Governing Plumbing;* and
- 24.39.70, *Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems.*

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 5, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
11341 W. Chinden Boulevard, Building #4
Boise, ID 83714
P.O. Box 83720
Boise, ID 83720-0063
tim.frost@dopl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF OMNIBUS FEE DOCKET NO. 24-0000-2202F
(New Chapters)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-308, Idaho Code. ()

001. SCOPE.

These rules govern the practice of architecture in Idaho. ()

002. INCORPORATION BY REFERENCE.

The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, dated July 2014, is hereby incorporated by reference. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. AXP. Architectural Experience Program. ()

02. Direct Supervision. Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. ()

03. NAAB. National Architectural Accrediting Board. ()

04. NCARB. National Council of Architectural Registration Board. ()

011. -- 174. (RESERVED)

175. APPLICANT PAST CRIME REVIEW.

01. Review Authority. In reviewing an Applicant for licensure who has been convicted of a felony or misdemeanor as set forth in section 54-314(1)(d) Idaho Code, the Board may utilize the follow process and factors to determine the applicant's suitability for licensure: ()

02. Exemption Review. The exemption review consists of a review of any documents relating to the crime and any supplemental information provided by the applicant bearing upon his suitability for registration. The Board may, at its discretion, grant an interview of the applicant and consider the factors set forth in Section 67-9411, Idaho Code. The applicant bears the burden of establishing their current suitability for licensure. ()

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATIONS AND LICENSURE.

Fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Examination	Established by NCARB
Application	\$25.00
Annual renewal	\$50.00
Endorsement license	\$50.00
Temporary license	\$50.00
Reinstatement	As provided in Section 67-2614, Idaho Code

()

201. -- 249. (RESERVED)

250. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION.

01. Accredited Degree Applicants. All applicants for the Architectural Registration Examination (ARE) will possess a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the Architectural Experience Program (AXP) requirements. ()

02. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience may include that necessary for completion of the AXP. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the AXP. ()

251. – 299. (RESERVED)

300. APPLICATION.

01. Licensure by Examination. ()

a. Application for licensure by examination is made on the uniform application form adopted by the Board. ()

b. Applicants must furnish all information required by the uniform application form and will include the following: ()

i. If applying based upon an accredited degree: Furnish certification of graduation and a certified transcript of all subjects and grades received for all college courses taken. ()

ii. If applying based upon experience in lieu of an accredited degree: Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. ()

c. Application will not be reviewed by the Board until all required information is furnished and the required fee is paid. ()

d. Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. ()

02. Licensure by Endorsement – Blue Cover. General requirements: Application includes a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and includes letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. ()

03. Licensure by Endorsement -- Equivalency. ()

a. Applicants for licensure by endorsement must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation including but not limited to: ()

b. Proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. ()

c. Proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. ()

301. -- 349. (RESERVED)

350. REGISTRATION EXAMINATION.

The Board, having found that the content and methodology of the ARE prepared by NCARB is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written and/or electronic examination for registration of architects in this state, and further adopts the following rules with respect thereto: ()

01. When Taken. The Board will cause the ARE, prepared by NCARB, to be administered to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board will cause repeat divisions of the ARE to be administered to qualified candidates on such dates as are scheduled by the NCARB. The ARE examination is a multiple part examination prepared by NCARB. Content of the examination in all of its sections is available from the Board or NCARB. ()

02. Grading. The ARE is graded in accordance with the methods and procedures recommended by the NCARB. Grades from the individual division are not averaged. Applicants will have unlimited opportunities to retake division which they fail except as set forth in these rules. The Board accepts passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB. ()

03. Passing (ARE). To pass the ARE, an applicant must achieve a passing grade on each division. Subject to certain conditions, a passing grade for any division of the ARE is valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. The Board may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, active duty in military service, or other like causes. Approval to take the ARE will terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE. ()

351. -- 374. (RESERVED)

375. ARCHITECTURAL INTERN.

An individual may represent themselves as an architectural intern only under the following conditions: ()

01. Supervision. Each architectural intern is employed by and work under the direct supervision of an Idaho licensed architect. ()

02. AXP Enrollment. Each architectural intern must be enrolled in NCARB's AXP and maintain a record in good standing. ()

03. Record. Each architectural intern possesses either: ()

a. A record with the NCARB establishing that AXP training has been started; or ()

b. A record establishing completion of all AXP training regulations as specified by NCARB. ()

04. Prohibitions. An architectural intern may not sign or seal any architectural plan, specification, or other document. An architectural intern may only engage in the practice of architecture under the direct supervision of an Idaho licensed architect. ()

376. -- 399. (RESERVED)

400. FIRM NAME.

01. Firm Names. Firm names incorporating the use of names of unlicensed individuals are considered in violation of Section 54-315, Idaho Code. A firm may continue to utilize the name of a retired or deceased formerly licensed architect so long as their unlicensed status is clearly disclosed. ()

401. -- 409. (RESERVED)

410. USE OF AN ARCHITECT'S SEAL.

An architect's seal may be placed on all technical submissions prepared personally by the architect or prepared under the architect's responsible control or as otherwise allowed under the provisions of Section 54-304, Idaho Code. Nothing in this rule limits an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect. ()

411. -- 449. (RESERVED)

450. CONTINUING EDUCATION.

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. ()

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal. ()

a. Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. ()

b. A licensee is considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. ()

c. A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. ()

d. One (1) continuing education hour is equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. ()

02. Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and be germane to the practice of architecture. Courses may include the following subject areas: ()

a. Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. ()

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. ()

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. ()

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. ()

- e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. ()
 - f. Preservation, which includes historical, reuse, and adaptation. ()
 - g. Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. ()
 - h. Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. ()
 - i. Construction documents, which includes drawings, specifications, and delivery methods. ()
 - j. Construction contract administration, which includes contracts, bidding, contract negotiations. ()
- 03. Approved Credit.** Continuing education courses must be presented by: ()
- a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or ()
 - b. Providers approved by the National Council of Architectural Registration Board (NCARB); or ()
 - c. Providers approved by the American Institute of Architects (AIA); or ()
 - d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. ()
- 04. Verification of Attendance.** It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of five (5) years and provided to the Board upon request of the Board or its agent. ()
- 05. Failure to Fulfill the Continuing Education Requirements.** The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. ()
- 06. Exemptions.** A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: ()
- a. Meets the military exemption set forth in Section 67-2602A, Idaho Code. ()
 - b. Is a government employee working as an architect and assigned to duty outside the United States. ()
 - c. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. ()

451. -- 749. (RESERVED)

750. CODE OF ETHICS.

01. Rules of Conduct. The NCARB Rules of Conduct are hereby adopted as the Code of Ethics for all Idaho licensed architects. ()

751. -- 999. (RESERVED)

24.04.01 – RULES OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-2808, Idaho Code. ()

001. SCOPE.

These rules govern the practice of geology in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of these rules, the following definitions apply: ()

01. Geologist-in-Training. The interim designation given to any person who has met the academic requirements and successfully passed the fundamentals of geology portion of the professional examination but has not yet completed the requisite years of experience and passed the practices of geology examination. ()

02. Registrant. Any person currently registered as a professional geologist. ()

03. Responsible Position. A position wherein a person, having independent control, direction, or supervision of a geological project, investigates and interprets geologic features. ()

04. Responsible Charge. Means the control and direction of geology work, requiring initiative, professional skill, independent judgment, and professional knowledge of the content of relevant documents during their preparation. ()

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Certificates. Certificates of registration are issued to each Registrant on forms adopted by the Board. Certificates must be displayed by Registrants in their place of business ()

02. Seals. The Board has adopted a seal for use by each Registrant. The seal may be a rubber stamp, crimp, or electronically generated image. Whenever the seal is applied, the Registrant's signature and date are also included. If the signature is handwritten, it will be adjacent to or across the seal. No further words or wording are required. A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature. (See "Appendix A" at end of this Chapter.) ()

a. The seal, signature, and date must be placed on all final specifications, reports, information, and calculations, whenever presented. Any such document that is not final and does not contain a seal, signature, and date will be clearly marked as "Preliminary," "Draft," "Not for Construction," or with similar words to distinguish the document from a final document. ()

b. The seal, signature, and date must be placed on all original documents. The application of the Registrant's seal, signature, and date constitutes certification that the work thereon was done by the Registrant or under the Registrant's supervision. Each plan or drawing sheet is sealed and signed by the Registrant or Registrants responsible for each sheet. In the case of a business entity, each plan or drawing sheet is sealed and signed by the Registrant or Registrants involved. The supervising professional geologist signs and seals the title or first sheet. Copies of electronically produced documents, listed in Paragraph 100.06.b. of these rules, distributed for informational uses such as for bidding purposes or working copies, may be issued with the Registrant's seal and a notice that the original document is on file with the Registrant's signature and date. The words "Original Signed By:" and "Date Original Signed:" are placed adjacent to or across the seal on the electronic original. The storage location of the original document must also be provided. Only the title page of reports, specifications, and like documents need bear the seal, signature, and date of the Registrant. ()

c. The seal and signature may be used by the Registrant only when the work being stamped was under the Registrant's responsible charge. Upon sealing, the Registrant takes full professional responsibility for that work. After-the-fact ratification by the sealing of documents relating to work that was not performed by the Registrant but by an unregistered subordinate or other unregistered individual and without thorough technical review throughout the project by the sealing Registrant is prohibited. ()

d. In the event a Registrant in responsible charge of a project leaves employment, is transferred, is

promoted, becomes incapacitated, dies, or is otherwise not available to seal, sign, and date final documents, the duty of responsible charge for the project is accomplished by successor Registrant by becoming familiar with and reviewing, in detail, and retaining the project documents to date. Subsequent work on the project must clearly and accurately reflect the successor Registrant’s responsible charge. The successor Registrant must seal, sign, and date all work product in conformance with Section 54-2815, Idaho Code. ()

03. Address Change. Each Applicant and Registrant must notify the Board within sixty (60) days of any and all changes of address, giving both old and new address. ()

101. -- 149. (RESERVED)

150. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$100
Initial Certificate	\$20
Annual Renewal	\$60
Annual Renewal for Registrants Seventy (70) Years of Age or Older	One-half (1/2) of the current renewal fee
Reinstatement	Is as provided in Section 67-2614, Idaho Code
Duplicate Certificate	\$20
Examination	Set by ASBOG

()

151. -- 199. (RESERVED)

200. APPLICATION PROCEDURES.

01. Applications. Applications for registration must be: ()

a. On forms prescribed by the Board and accompanied by official transcripts, reference statements, and a signed code of ethics; ()

b. Received by the Board, if for registration by examination, not less than ninety (90) days prior to the date of examination; ()

c. Subscribed and certified to by the Applicant under penalty of perjury as provided for by state law; and ()

d. Incomplete applications will not be accepted by the Board and will be returned to the Applicant with a statement of the reason for return. ()

02. Dates. The date of application is the date it is delivered in person to the Board office or, if mailed, the date shown by post office cancellation mark. Qualifying education and experience of the Applicant, for examination and registration, is computed from the date of application as described above. ()

03. References. Statements from personal references in Responsible Positions concerning the Applicant’s technical ability and personal character, will be received, as prescribed by the Act, prior to any action by the Board to approve an Application. Each statement must reflect in a positive way the technical and ethical merits of the Applicant. Applicants for the Fundamentals of Geology examination may fulfill this requirement with reference

statements from geologists in Responsible Positions familiar with the ability and character of the Applicant as demonstrated in an academic setting. ()

04. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. ()

201. -- 299. (RESERVED)

300. EXAMINATIONS.

Except as otherwise provided in statute, every Applicant for registration as a professional geologist shall take and pass the complete professional examination for registration as a professional geologist. ()

01. Fundamentals of Geology. The written examination is the Fundamentals of Geology examination provided by ASBOG. To be eligible to take the Fundamentals of Geology examination, an Applicant must have completed thirty (30) semester units or equivalent quarter units in courses in geological science leading to a degree in the geological sciences of which at least twenty-four (24) units are in third or fourth year, and/or graduate courses. Applicants who can satisfy to the Board that they will have completed the required coursework and number of units and will be graduating at the end of the spring, summer or fall terms of any given year, may be eligible for examination immediately preceding the date of graduation. ()

02. Practice of Geology. The written examination is the Practice of Geology examination provided by ASBOG. To be eligible to take the Practice of Geology examination an Applicant must have satisfied the education requirements as set forth in Section 54-2812, Idaho Code. ()

03. Authorization. ()

a. The Board shall notify each Applicant in writing of the acceptance or rejection of his Application and, if rejected, the reason for the rejection. ()

b. Not less than ninety (90) days prior to the examination date, the Applicant shall give written notice to the Board of his intent to take the examination and shall submit all applicable testing fees in full. ()

c. Not less than thirty (30) days prior to the examination date, the Board shall give written notice to each Applicant that has previously given written notice and has paid his examination fees, of the date, time, and location(s) of the examination. ()

04. Reexamination. An Applicant failing their first examination may apply for reexamination without filing a new Application and shall be entitled to such reexamination on payment of the reexamination fee. Provided, however, that it shall be unlawful for an Applicant failing any examination to practice professional geology under the appropriate provisions of the Act. ()

05. Time and Place. The Board shall make all arrangements necessary to provide sufficient help to conduct examinations and to provide adequate facilities at such locations throughout the state as may be required to accommodate the number of Applicants to be examined upon the dates prescribed by ASBOG. ()

06. Scores. An Applicant for registration by examination must successfully pass both the Fundamentals of Geology examination and the Practice of Geology examination. ()

a. Every Applicant receiving a scaled score of seventy (70) or more, as determined by ASBOG, on the Fundamentals of Geology examination shall be deemed to have passed the examination, is thereby eligible to receive certification as a Geologist-in-Training. ()

b. Every Applicant receiving a scaled score of seventy (70) or more, as determined by ASBOG, on the Practice of Geology examination shall be deemed to have passed such examination and will be registered as a professional geologist. ()

c. Every Applicant receiving a scaled score of less than seventy (70), as determined by ASBOG, on either the Fundamentals of Geology examination or the Practice of Geology examination, is deemed to have failed such examination. Every Applicant having failed will have his Application denied without prejudice, but will be allowed to retake the failed examination in accordance with Subsection 300.04 of these rules. ()

07. Re-Score or Review of Examination. ()

a. An Applicant who fails to obtain a passing grade in any portion of the written examination may request a rescore or review of his examination papers at such times, locations, and under such circumstances as may be designated by the Board, ASBOG, or both. ()

b. When a review is requested and authorized, at the time of review, no one other than the examinee or his attorney and a representative of the Board will have access to such examination papers. ()

301. -- 399. (RESERVED)

400. GEOLOGIST IN TRAINING.

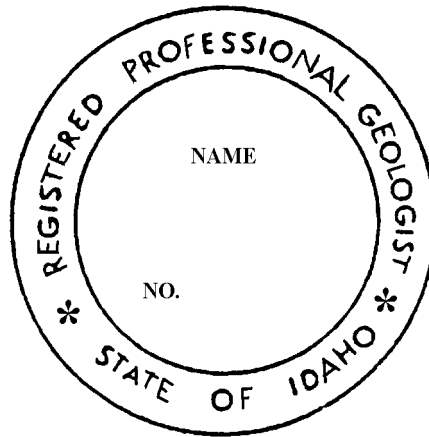
An Applicant who has passed the Fundamentals of Geology examination and satisfied the education requirements set forth in Subsection 300.01 of these rules, will receive a certificate of completion designating the Applicant as a Geologist-in-Training. ()

01. Supervised Practice. The possession of a Geologist-in-Training certificate by an Applicant does not entitle the Applicant to practice professional geology without supervision. ()

02. Limitation. Designation as a Geologist in Training is limited to a period not to exceed ten (10) years. If after ten (10) years the Geologist-in-Training has not met all requirements for registration as a professional geologist, the Geologist-in-Training certification is withdrawn and the Applicant must re-apply for registration. ()

401. -- 999. (RESERVED)

APPENDIX A -- AS REFERENCED IN SECTION 24.04.01.100.06.b.



SEAL OF REGISTERED PROFESSIONAL GEOLOGIST
Diameter of Outer Ring: 1 1/2 Inches
Diameter of Inner Ring: 1 Inch

24.07.01 – RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-3003, Idaho Code. ()

001. SCOPE.

These rules govern th practice of landscape architecture in Idaho. ()

002. INCORPORATION BY REFERENCE.

The document titled the Council of Landscape Architectural Registration Boards (CLARB) Model Rules of Professional Conduct as amended February 2007, referenced in Subsection 425, is herein incorporated by reference. ()

003. -- 100. (RESERVED)

101. APPROVED EDUCATION.

An approved college or school of landscape architecture shall have a landscape architecture program accredited by the Landscape Architectural Accreditation Board (LAAB), or shall substantially meet the accrediting standards of the LAAB as may be determined by the Board. ()

102. PRACTICAL EXPERIENCE IN LIEU OF EDUCATION.

An applicant shall document at least eight (8) years of actual practical experience in landscape architecture in lieu of graduation from an approved college or school of landscape architecture. Such experience shall establish the applicant’s education in those subjects and areas contained in the curriculum of an approved college or school of landscape architecture. No less than fifty percent (50%) of such practical experience shall be under the supervision of a licensed landscape architect. ()

103. -- 199. (RESERVED)

200. APPLICATION.

Each applicant for licensure shall submit a complete application together with the required fees to the Board. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Division. An application shall not be reviewed by the Board until all required information is furnished and the required fees paid. ()

201. APPLICATION FORM.

01. Materials Submitted to Board. All required applications, statements, fees and other documentation must be submitted to the Board in care of the Division of Occupational and Professional Licenses, and shall include: ()

a. Either certification of graduation from an approved college or school of landscape architecture; or ()

b. Documentation of all actual landscape architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment; and ()

c. Proof of successful passage of an examination approved by the Board. ()

202. -- 249. (RESERVED)

250. LANDSCAPE ARCHITECT-IN-TRAINING.

An individual may represent themselves as a landscape architect-in-training only under the following conditions: ()

01. Qualifications. Any person who is at least eighteen (18) years of age and has graduated from an approved college or school of landscape architecture, or who documents at least eight (8) years of actual practical experience in landscape architecture approved by the Board. ()

02. Supervision. Each landscape architect-in-training shall be employed by and work under the direct supervision of an Idaho licensed landscape architect. Any change in supervision shall require a new application and registration. ()

03. Prohibitions. A landscape architect-in-training shall not sign or seal any plan, specification, or other document, and shall not engage in the practice of landscape architecture except under the direct supervision of an Idaho licensed landscape architect. ()

04. Registration. Each landscape architect-in-training shall register with the Board on forms provided by the Division of Occupational and Professional Licenses that shall include the application fee and the names and addresses of their employer, and supervisor. ()

05. Termination. A registration for a landscape architect-in-training shall not exceed a total of six (6) years. ()

251. -- 299. (RESERVED)

300. EXAMINATIONS.

The examination prepared by the Council of Landscape Architectural Registration Boards is an approved examination. The Board may approve other examinations it deems appropriate. ()

01. Minimum Passing Score. The minimum passing score for each section of the examination shall be the score as determined by the examination provider. ()

02. Failing a Section of Exam. An applicant failing any section of the examination will be required to retake only that section failed. ()

301. (RESERVED)

302. ENDORSEMENT.

The Board may approve the registration and licensure of an applicant who holds a current license in another state and who has successfully passed the Landscape Architect Registration Examination as required by Section 300 or holds a current Council of Landscape Architectural Registration Boards certificate. ()

303. -- 399. (RESERVED)

400. FEES.

Fees are not refundable.

FEE	AMOUNT (Not to Exceed)
Application	\$75
Landscape Architect-in-training Application	\$25
Examination	As established by CLARB
Original License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

()

401. -- 424. (RESERVED)

425. RULES OF PROFESSIONAL RESPONSIBILITY.

01. Rules of Professional Responsibility. The CLARB model rules of professional conduct, as incorporated, are the Rules of Professional Responsibility for all Idaho licensed landscape architects. ()

02. Violation of the Rules of Professional Responsibility. The Board will take action against a

licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility.
()

426. -- 449. (RESERVED)

450. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed landscape architect for each violation of Section 54-3004, Idaho Code. ()

02. Costs and Fees. The Board may order a licensed landscape architect to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3004, Idaho Code. ()

451. -- 999. (RESERVED)

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

000. LEGAL AUTHORITY.

The following rules are promulgated pursuant to Section 54-1106 and 54-1107, Idaho Code. ()

001. SCOPE.

These rules govern the practice of morticians, funeral directors, and funeral establishments in Idaho. ()

002. -- 249. (RESERVED)

250. RESIDENT TRAINEE.

A Resident Trainee is a person who is licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director. ()

01. Training Requirements. ()

a. Full-time employment requires that the Resident Trainee be employed for at least thirty-six (36) hours per week for fifty (50) weeks per year within the Idaho mortuary where the Resident Trainee’s sponsoring mortician is practicing. ()

i. At least three-fourths (3/4) of the Resident Trainee’s training must consist of the sponsoring mortician instructing and demonstrating practices and procedures to increase the Resident Trainee’s knowledge of the service performed by a mortician or a funeral director as defined in Chapter 11, Title 54, Idaho Code. ()

ii. For the balance of the required hours, the sponsoring mortician, or his licensed appointee, must be immediately available to consult with the Resident Trainee. ()

b. All training must occur within Idaho. ()

c. A Resident Trainee shall not sign a death certificate. ()

02. Sponsoring Mortician. A sponsoring mortician must: ()

a. Be an Idaho-licensed mortician who practices in Idaho. ()

b. Not serve as the sponsoring mortician for more than two (2) “Resident Trainees at any given time.” ()

c. Supervise and instruct the Resident Trainee, and provide demonstrations for and consultations to the Resident Trainee, as described in Subsection 250.01, of this rule. ()

d. Complete and co-sign, with the Resident Trainee, quarterly and final reports. These reports must be completed on forms approved by the Board and document the information described in Subparagraphs 250.04.c. and 250.04.d., of this rule. The sponsoring mortician must promptly submit a report after the period of time covered by the report ends. ()

e. Promptly notify the Board in writing if a Resident Trainee’s training is terminated, including termination due to interruption as specified in Subsection 250.05, of this rule and submit a final report documenting training up to the termination date. ()

03. Eligibility to Be Licensed. For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Division at the beginning and termination of the training period. When a Resident Trainee completes training, the Resident Trainee must complete the remaining qualifications for licensure as a mortician or funeral director within the following three (3) years or show good reason for further delay. ()

251. -- 299. (RESERVED)

300. APPLICATIONS AND EXAMINATION.

In order to be admitted to the examination, the applicant must submit a completed application on forms provided by the Division and provide all requested documentation including proof of having completed the training period as prescribed by law and these rules, and meet the specific requirements for license as set forth in Section 54-1109 of the Idaho Code. ()

301. -- 324. (RESERVED)

325. APPROVED EXAMINATION.

Applicants for licensure shall successfully pass the examinations set forth below. ()

01. Mortician Examination. The Mortician examination shall consist of: ()

a. All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and ()

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. ()

02. Funeral Director. The funeral director examination shall consist of: ()

a. The Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board; and ()

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. ()

03. Grading. The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. ()

326. -- 379. (RESERVED)

380. INACTIVE LICENSE.

01. Request for Inactive License. Persons holding an unrestricted mortician or funeral director license in this state may apply for inactive status by making written application to the Board on a form prescribed by the Board and paying the established fee. ()

02. Inactive License Status. ()

a. If a licensee holds a certificate of authority and places their license on inactive status, their certificate of authority expires as of the date their license becomes inactive. ()

b. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. ()

03. Return to Active License Status. An inactive license holder may convert from inactive to active license status by: ()

a. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ()

b. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ()

c. An inactive licensee who held a certificate of authority at the time their license became inactive who returns to active license status pursuant to this rule may be reissued a certificate of authority by paying the

renewal fee for the certificate of authority. ()

381. -- 409. (RESERVED)

410. CONTINUING EDUCATION.

01. Continuing Education (CE) Requirement. Each Idaho licensed mortician and funeral director must successfully complete a minimum of eight (8) hours of continuing education annually for license renewal. ()

a. Each licensee certifies on their renewal application form that compliance with the annual CE requirements has been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. ()

b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. ()

c. Prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. ()

02. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, computer on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that provides the opportunity for participants to communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. ()

a. A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. Only four (4) hours may be carried over from correspondence, computer on-line, or self-study. ()

03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a college or university, a national or state association, trade group, or other person or entity approved by the Board and must be germane to the license held. Continuing education may include, but will not be limited to, the following subject areas: ()

a. Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. ()

b. Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. ()

c. Social Science. This includes, but is not limited to, communication skills (both written and oral), sociological factors, counseling, grief psychology, funeral customs, or comparable subjects. ()

d. Legal, Ethical, Regulatory. This includes, but is not limited to, OSHA (Occupational Safety and Health Association), FTC (Federal Trade Commission), ethical issues, legal interpretations, or comparable subjects. ()

04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. ()

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. ()

06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. ()

411. -- 424. (RESERVED)

425. MAINTENANCE OF PRE-NEED TRUST ACCOUNT FEES.

Maintenance of pre-need trust accounts fee. Pursuant to Section 54-1134(4), Idaho Code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts. ()

426. -- 449. (RESERVED)

450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT.

Applicants shall submit a board approved application form. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. A walk-through inspection of the establishment must be arranged and completed within six (6) months of the Board's review of the application or the application will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. ()

01. Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. ()

02. Funeral Establishment. All funeral establishments shall be required to provide each of the following: ()

a. An operating room and necessary equipment for embalming; ()

b. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; ()

c. A chapel where funeral or other religious ceremonies may be held; and ()

d. A room for viewing and visitation. ()

03. Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: ()

a. The price of the service that the person or persons have selected and what is included therein. ()

b. The prices of each of the supplementary items of service and/or merchandise requested. ()

c. The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. ()

d. The method of payment. ()

e. If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. ()

04. Crematory Establishment. All crematory establishments shall be required to provide each of the following: ()

a. Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, an appropriate purpose-built vessel with documented validation for sterilization; and ()

b. One (1) set of plans approved by the local building department for the proposed new construction or remodeling where the retort is to be located. ()

451. (RESERVED)

452. MINIMUM STANDARDS.

01. Reasonable Sanitation and Safety Required. No license will be issued to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. ()

02. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives written authorization to cremate the body. ()

03. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. ()

04. Casket Not Necessary. It is not necessary for the body to be in a casket for cremation to take place. ()

a. This is not to be construed to mean that the crematory must cremate without a casket; and ()

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. ()

453. RECEIPT FOR BODIES TO BE CREMATED.

The following must be performed by the operator of a crematory upon receipt of a human body for cremation: ()

01. Provide a Receipt. A receipt must be delivered to the licensed mortician or funeral director, his agent, or another person who delivers such body to the crematory. ()

02. Contents of Receipt. The receipt must show: ()

a. The name of the decedent whose body was received; and ()

b. The date on which that body was received; and ()

c. The place where that body was received; and ()

d. The name and address of the funeral establishment from whom that body was received; and ()

e. The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually delivers the body. ()

454. RECORDS OF BODIES.

- 01. Content of Record.** Each funeral establishment and crematory must maintain a record of each burial, cremation, or other disposition of human remains, disclosing: ()
- a. The name of the decedent; and ()
 - b. The name and address of the person, or names and addresses of the persons if more than one (1), authorizing the burial, cremation, or other disposition of that body; and ()
 - c. A statement as to whether or not the body was embalmed; and ()
 - d. The date of the burial, cremation, or other disposition of that body; and ()
 - e. The subsequent disposal of any cremated remains. ()

455. RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS.

- 01. Responsibility for Record.** Records regarding the burial, cremation, and other disposition of human bodies must be made as soon as reasonably possible after the burial, cremation, or other disposition and must be dated and signed by the licensed mortician or funeral director who supervised or was otherwise directly responsible for the burial, cremation, or other disposition. ()
- 02. Inspection of Records.** Records regarding the receipt, burial, cremation, and other disposition of human bodies must be maintained at the funeral establishment and crematory and be open for inspection at any reasonable time by the Board or its designated representatives. ()

456. -- 499. (RESERVED)

500. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	\$85
Funeral Establishment	\$125
Crematory Establishment	\$200
Mortician	\$85
Inactive License	\$40
Resident Trainee	\$50
Application Fee	\$100
Certificate of Authority	\$50

()

501. DISCIPLINE.

The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Section 54-1116, Idaho Code. ()

502. -- 999. (RESERVED)

24.18.01 – RULES OF THE REAL ESTATE APPRAISER BOARD

000. LEGAL AUTHORITY.

These rules are adopted under Section 54-4106, Idaho Code. ()

001. SCOPE.

These rules govern the practice of real estate appraisal in Idaho. ()

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The document titled “Uniform Standards of Professional Appraisal Practice (USPAP),” 2020-2021 Edition, excluding standards 7, 8, 9, and 10, published by the Appraisal Foundation and effective January 1, 2020, is herein incorporated by reference and is available for review at the Board’s office and may be purchased from the Appraisal Foundation, Distribution Center, P. O. Box 381, Annapolis Junction, MD 20701-0381. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accredited. Accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. ()

02. Advisory Committee. A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. ()

03. Appraiser Qualifications Board. Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. ()

04. Appraisal Standards Board. The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. ()

05. Classroom Hour. Fifty (50) minutes out of each sixty (60) minute hour in a setting which may include a classroom, conference/seminar, on-line or a virtual classroom. ()

06. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgment, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. ()

07. FIRREA. Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. ()

08. Real Estate. In addition to the previous definition in Section 54-4104(12), Idaho Code, will also mean an identified parcel or tract of land, including improvements, if any. ()

09. Real Property. In addition to the previous definition in Section 54-4104(12), Idaho Code, will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. ()

10. Residential Unit. Real estate with a current highest and best use of a residential nature. A residential unit includes a kitchen and a bathroom. ()

11. Uniform Standards of Professional Appraisal Practice or USPAP. Those uniform standards adopted by the Appraisal Foundation’s Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. ()

12. USPAP Course. For the purposes of licensure and license renewal, any reference to the approved USPAP course means the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP

Instructors and Educational Providers. ()

13. Appraisal Management Company or AMC. Appraisal Management Company or AMC means a natural person or organization that meets the definition in Section 54-4122, Idaho Code, and is registered under the Idaho Appraisal Management Company Registration and Regulation Act. ()

011. -- 149. (RESERVED)

150. FEES.

Fees are non-refundable and established in accordance with Sections 54-4113, 54-4124, and 54-4134, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$200	
License	\$100*	\$275*
AMC Registration	\$1,000**	\$900**
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application for Reciprocity	\$200	
Original license via Reciprocity	\$100*	
Temporary Permit	\$75	
Trainee Registration	\$50	
Continuing Education Provider Application	\$100	
Examination and Reexamination	As charged by the provider	

()

01. Fees Followed by One Asterisk (*) Means. Proposed fees for these categories marked with an asterisk (*) include forty dollars (\$40) to be submitted by the state to the federal government. Title XI, Section 1109 of the FIRREA as amended requires each state to submit a roster listing of state licensed appraisers to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council “no less than annually.” The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of “not more than eighty-five dollars (\$85),” such fees to be transmitted by the state to the federal government on an annual basis. This fee is subject to change by the Appraisal Subcommittee. ()

02. Fees Followed by Two Asterisks () Means.** The fees for the categories marked with two (2) asterisks (**) do not include additional fees assessed pursuant to Title XI, Section 1109 of the FIRREA, as amended, including, but not limited to, an AMC registry fee, such fees to be collected from AMCs by the state and transmitted to the federal government on an annual basis. ()

151. -- 199. (RESERVED)

200. APPLICATION.

01. Appraiser License Application. Any person desiring to apply for licensure must submit a completed application with required supporting documents and appropriate fees to the Division at its official address. After the qualifications have been reviewed, verified and approved by the Board, the applicant will receive the pre-approved examination card and must submit the appropriate fees to the examining entity. ()

02. Eligibility for Examination. The qualified applicant will be sent notification on how to register for the examination subsequent to the determination of eligibility based on documentation that the applicant has met the required education and experience requirements. ()

03. Trainee Registration Application. Any person desiring registration as a trainee must submit a completed application with required supporting documents and appropriate fees to the Division at its official address. ()

04. AMC Registration Application. Any person or organization desiring registration as an AMC must submit a completed application with required supporting documents and appropriate fees to the Division at its official address. ()

201. -- 249. (RESERVED)

250. REQUIREMENTS FOR LICENSURE.

All applicants for licensure in any real estate appraiser classification must comply with the following education, experience and examination requirements in addition to meeting those requirements set forth in Sections 275, 300, 350, and 400 below. ()

01. Education. Classroom hours will be credited only for courses with content that follows the Required Core Curriculum as outlined by the Appraisal Qualification Board. ()

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes a closed-book examination pertinent to the educational offering. In addition, distance education courses intended for use as qualifying education must include a written, closed-book final examination - proctored by an official approved by the college or university or by the sponsoring organization. The term "written" as used herein refers to an exam that might be written on paper or administered electronically on a computer workstation or other device. Oral exams are not acceptable. The testing must be in compliance with the examination requirements of this section. ()

b. Credit for the classroom hour requirement may be obtained from the following: ()

i. Colleges or Universities. ()

ii. Community or Junior Colleges. ()

iii. Courses approved by the Appraisal Qualifications Board. ()

iv. State or Federal Agencies or Commissions. ()

v. Other providers approved by the Board. ()

c. Only those courses completed preceding the date of application will be accepted for meeting educational requirements. ()

d. Course credits that are obtained from the course provider by challenge examination without attending the course will not be accepted. ()

e. Credit toward education requirements may be obtained through completion of a degree in Real Estate from: ()

i. An accredited degree-granting college or university that has been approved by the Association to Advance Collegiate Schools of Business; or ()

ii. A regional or national accreditation agency that is recognized by the U.S. Secretary of Education and whose curriculum has been reviewed and approved by the Appraiser Qualifications Board. ()

f. Applicants with a college degree from a foreign country may have their education evaluated for equivalency by one (1) of the following: ()

i. An accredited, degree-granting domestic college or university; ()

ii. The American Association of Collegiate Registrars and Admissions Officers (AACRAO); ()

iii. A foreign degree credential evaluation services company that is a member of the National Association of Credential Evaluation Services (NACES); or ()

iv. A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues credentials in another discipline. ()

02. Experience. ()

a. The work product claimed for experience credit must be in conformity with USPAP. ()

b. All appraisal experience must be obtained as a registered trainee or as a licensed appraiser. At least five hundred (500) hours in no less than three (3) months must be obtained in Idaho pursuant to these rules. The Board will only consider experience from other jurisdictions with substantially equal requirements. ()

c. Only experience gained during the five (5) years immediately preceding application will be considered for evaluation. ()

d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. ()

e. Each applicant applying for licensure must verify completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. ()

i. The Board requires submission of a log that details hours claimed for experience credit. The log must include the following: ()

(1) Type of property; ()

(2) Address of the property; ()

(3) Report date; ()

(4) Description of work performed; ()

(5) Number of work hours; ()

(6) Complexity; ()

(7) Approaches to value; ()

(8) Appraised value; ()

(9) Scope of supervising appraiser's review; and ()

(10) Signature and license number of the supervising appraiser. ()

ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. ()

iii. The Board may request submission of written reports or file memoranda that substantiate an applicant's claim for experience credit. ()

f. Ad valorem tax appraisers must demonstrate the use of techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.06, Field Real Estate Appraisal Experience in order to receive experience credit. ()

03. Examination. Successful completion of an examination appropriate to the license classification being applied for and approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. ()

251. -- 274. (RESERVED)

275. REGISTERED TRAINEE REAL ESTATE APPRAISER.

01. Qualification. Each applicant for registration as an appraiser trainee must meet the following requirements: ()

a. Education. Within the five-year period preceding application, all applicants for registration as a trainee must document completion of at least seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. Basic Appraisal Principles - not less than thirty (30) hours specifically including Real Property Concepts and Characteristics, Legal Considerations, Influences on Real Estate Values, Types of Value, Economic Principles, Overview of Real Estate Markets and Analysis, and Ethics and How They Apply in Appraisal Theory and Practice; and ()

ii. Basic Appraisal Procedures - not less than thirty (30) hours specifically including Overview of Approaches to Value, Valuation Procedures, Property Description, and Residential Applications; and ()

iii. National USPAP Course - not less than fifteen (15) hours. ()

b. Experience. All applicants for registration as a trainee must retain and identify at least one (1) qualified supervisor as required by law and rule. ()

c. Examination. Each trainee applicant shall document successful passage of examinations in each of the prerequisite courses required for registration as a trainee. ()

d. Prior to registration as an appraiser trainee, each trainee applicant must complete a trainee appraiser course that complies with the content requirements established by the Appraisal Qualifications Board. This course is in addition to the education requirements set forth in Section 275. ()

02. Scope and Practice. An Appraiser Trainee shall not be involved in the appraisal of any property that exceeds the lawful scope of practice of the supervising appraiser. The appraiser trainee shall be subject to USPAP. ()

a. Each appraiser trainee is permitted to have more than one (1) supervising appraiser provided a supervising appraiser is not registered to more than three (3) trainees at any one (1) time. ()

b. An appraisal log shall be maintained for each supervising appraiser by the appraiser trainee and shall include no less than the requirements outlined in Subsection 250.02.e.i. for each appraisal. ()

c. An appraiser trainee shall be entitled to obtain copies of all appraisal reports prepared by the trainee. ()

03. Continuing Education. Prior to the second renewal and for each continuing education cycle thereafter as provided in Section 275 of this rule, an appraiser trainee shall be required to obtain: ()

a. The equivalent of thirty (30) classroom hours of instruction in approved courses or seminars during the twenty-four (24) month period preceding the renewal. Once every twenty-four (24) months, registered appraiser trainees will be required to attend an approved seven-hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. ()

b. All continuing education shall be in compliance with Subsections 401.01 through 401.05. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. ()

c. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities that are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. ()

d. The purpose of continuing education is to ensure that the appraiser trainee participates in a program that maintains and increases skill, knowledge and competence in real estate appraising. ()

04. Renewal and Reinstatement. An appraiser trainee shall renew their registration annually as set forth in Section 67-2614, Idaho Code, and may reinstate after expiration as provided in Section 67-2614, Idaho Code. Beginning July 1, 2017, an individual may only be registered as an appraiser trainee for a maximum period of five (5) years, unless approved by the Board for good cause. ()

276. REGISTERED TRAINEE SUPERVISORS.

01. Registered Trainee Supervisor Requirements. ()

a. A supervising appraiser shall: ()

i. Hold a current Idaho license as a Certified Residential Appraiser or as a Certified General Appraiser when supervising a trainee registered in Idaho. ()

ii. Have held a current and unrestricted license as a Certified Residential Appraiser or a Certified General Appraiser for at least three (3) years prior to providing supervision; and; ()

iii. Submit evidence of completion of an approved four-hour (4) continuing education course regarding the role of a supervising appraiser. ()

iv. Not have been disciplined by the Board or any other state or jurisdiction within the previous four (4) years; and ()

v. Not supervise more than three (3) appraiser trainees at one time; and ()

vi. Be responsible for the training and direct supervision of the appraiser trainee; and ()

vii. Accept responsibility for all appraiser trainee appraisal reports by signing and certifying that the report is in compliance with USPAP; and ()

viii. Review and sign all appraiser trainee appraisal report(s); and ()

ix. Personally inspect each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent in accordance with the Competency Provision of USPAP for the property type. ()

b. An accurate, current and complete appraisal experience log shall be maintained jointly by the supervising appraiser and the appraiser trainee as outlined in Subsection 250.02.e.i. ()

- c. A supervising appraiser may not continue to supervise if: ()
 - i. The appraiser ceases to meet supervisor requirements; or ()
 - ii. The appraiser is disciplined, unless the board grants a waiver and a waiver may be subject to conditions set by the board. ()

277. -- 299. (RESERVED)

300. LICENSED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.

The state licensed residential real estate appraiser classification applies to the appraisal of residential real property consisting of one (1) to four (4) non-complex residential units having a transaction value less than one million dollars (\$1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars (\$250,000). Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being licensed, every licensee must annually meet the continuing education requirement. ()

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Licensed Residential Real Estate Appraiser, each applicant shall: ()

- a. Document registration as an Appraiser Trainee; and ()
- b. Document the successful completion of not less than seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: ()
 - i. Residential Market Analysis and Highest and Best Use – not less than fifteen (15) hours; and ()
 - ii. Residential Appraiser Site Valuation and Cost Approach – not less than fifteen (15) hours; and ()
 - iii. Residential Sales Comparison and Income Approaches – not less than thirty (30) hours specifically including: Valuation Principles and Procedures – Sales Comparison Approach; Valuation Principles and Procedures – Income Approach; Finance and Cash Equivalency; Financial Calculator Introduction; Identification, Derivation and Measurement of Adjustments; Gross Rent Multipliers; Partial Interests; Reconciliation; and Case Studies; and ()
 - iv. Residential Report Writing and Case Studies – not less than fifteen (15) hours specifically including: Writing and Reasoning Skills; Common Writing Problems; Form Reports; Report Options and USPAP Compliance; Case Studies. ()

02. Experience. Prerequisite to sit for the examination: ()

- a. Document one thousand (1,000) hours of supervised appraisal experience as a registered Appraiser Trainee in no less than six (6) months. Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. ()
- b. Of the required one thousand (1,000) hours, the applicant must accumulate a minimum of seven hundred-fifty (750) hours from field real estate appraisal experience. The balance of two hundred-fifty (250) hours may include non-field experience, refer to Subsection 250.02.d. ()

03. Examination. Successful completion of the Licensed Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. ()

301. -- 349. (RESERVED)

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being certified every licensee must annually meet the continuing education requirement. ()

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall: ()

a. Hold a Bachelor's degree in any field of study from an accredited degree-granting college or university, or meet one of the following options: ()

i. Possession of an Associate's degree in a field of study related to business administration, accounting, finance, economics or real estate; or ()

ii. Successful completion of thirty (30) semester hours of college-level courses that cover each of the following specific topic areas and hours: English composition (three (3) semester hours), microeconomics (three (3) semester hours), macroeconomics (three (3) semester hours), finance (three (3) semester hours), algebra, geometry or higher mathematics (three (3) semester hours), statistics (three (3) semester hours), computer science (three (3) semester hours), business or real estate law (three (3) semester hours), and two (2) elective courses in any of the topics listed above or in accounting, geography, agricultural economics, business management, or real estate (three (3) semester hours each); or ()

iii. Successful completion of at least thirty (30) semester hours of College Level Examination Program® (CLEP®) examinations from each of the following subject matter areas: college algebra (three (3) semester hours), college composition (six (6) semester hours), college composition modular (three (3) semester hours), college mathematics (six (6) semester hours), principles of macroeconomics (three (3) semester hours), principles of microeconomics (three (3) semester hours), introductory business law (three (3) semester hours), and information systems (three (3) semester hours), or ()

iv. Any combination of the above criteria (within Subsections 350.01.a.ii. and 350.01.a.iii. of these rules) that ensures coverage of all topics and hours identified in Subsection 350.01.a.ii. ()

b. As an alternative to the requirements in Subsection 350.01.a., above, individuals who have held a Licensed Residential credential for a minimum of five (5) years may qualify as meeting the requirements of Subsection 350.01.a., if it is established that there is no record of any adverse, final, and non-appealable disciplinary action affecting the Licensed Residential appraiser's legal eligibility to engage in appraisal practice within the five (5) years immediately preceding the date of application for a Certified Residential license. ()

c. Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser, or hold a current license as a Licensed Residential Real Estate Appraiser; and ()

d. Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and ()

ii. Advanced Residential Applications and Case Studies: not less than fifteen (15) hours, specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and ()

iii. Appraisal Subject Matter Electives: not less than twenty (20) hours, and may include hours over the minimum shown in Subsection 350.01.d. of these rules. ()

02. Experience. Experience is a prerequisite to sit for the licensure examination: ()

a. Document one thousand five hundred (1,500) hours of appraisal experience in no less than twelve (12) months (see Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. ()

b. One thousand two hundred (1,200) hours of the experience shall be from residential field appraisal experience. The balance of three hundred (300) hours may include non-field experience, refer to Subsection 250.02.d. ()

c. Examination. Successful completion of the Certified Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. ()

351. -- 399. (RESERVED)

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 250. Subsequent to being certified, an individual must meet the continuing education requirement. ()

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Certified General Real Estate Appraiser, each applicant shall: ()

a. Hold a Bachelor's degree or higher from an accredited degree-granting college or university; and ()

b. Document registration as an Appraiser Trainee and document the successful completion of not less than two hundred twenty-five (225) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal), and Real Estate Finance; ()

ii. General Appraiser Market Analysis and Highest and Best Use: not less than thirty (30) hours; ()

iii. General Appraiser Sales Comparison Approach: not less than thirty (30) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; ()

iv. General Appraiser Site Valuation and Cost Approach: not less than thirty (30) hours; ()

v. General Appraiser Income Approach: not less than sixty (60) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; ()

vi. General Appraiser Report Writing and Case Studies: not less than thirty (30) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and ()

vii. Appraisal Subject Matter Electives: not less than thirty (30) hours, and may include hours over the minimum shown in Subsection 400.01.b. of these rules; or ()

c. Document licensure as a Licensed Residential Real Estate Appraiser and the successful completion

of not less than one hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and ()

ii. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and ()

iii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and ()

iv. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and ()

v. General Appraiser Income Approach: not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and ()

vi. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and ()

vii. Appraisal Subject Matter Electives: not less than thirty (30) hours. and may include hours over the minimum shown in Subsection 400.01.c.; or ()

d. Document licensure as a Certified Residential Real Estate Appraiser and the successful completion of not less than one hundred five (105) classroom hours of courses in subjects related to real estate appraisal as follows: ()

i. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and ()

ii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and ()

iii. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and ()

iv. General Appraiser Income Approach: not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and ()

v. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. ()

02. Experience. Experience is a prerequisite to sit for the licensure examination: ()

a. Document three thousand (3,000) hours of appraisal experience in no less than eighteen (18) months (See Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. ()

b. One thousand five hundred (1,500) hours of the experience must be non-residential appraisal experience. The balance of one thousand five hundred (1,500) hours may be solely residential experience or can

include up to five hundred (500) hours of non-field experience as outlined in Subsection 250.02.d. ()

c. Examination. Successful completion of the Certified General Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. ()

401. CONTINUING EDUCATION.

All certified/licensed appraisers must comply with the following continuing education requirements: ()

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. ()

02. Hours Required. The equivalent of thirty (30) classroom hours of instruction in courses or seminars during the twenty-four (24) months prior to renewal is required. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. ()

a. If the educational offering is taken on-line or in a virtual classroom, the course must include successful completion of prescribed course mechanisms required to demonstrate knowledge of the subject matter. ()

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. ()

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualifications Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require the continuing education provider to submit the educational course approval application and application fee as set forth in these rules along with the documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. ()

d. Once every twenty-four (24) months, Idaho State Certified/Licensed Real Estate Appraisers and registered trainees will be required to attend an approved seven (7) hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. ()

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. ()

04. Credit for Attending the Licensure Board Meetings. Continuing education credit may be granted for a maximum of two (2) hours each continuing education cycle for time spent attending one (1) Board meeting. Members of the board shall not be entitled to continuing education credit for board service. ()

05. Requirement When a Certificate/License Is Canceled. For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be documented, including a seven (7) hour USPAP update course, prior to reinstatement. The course must cover the most recent USPAP edition. ()

402. -- 449. (RESERVED)

450. RECIPROCITY.

Applicant must comply with Section 54-4115, Idaho Code, and Submit current notarized statement verifying certification/licensure in good standing in another state ()

451. -- 499. (RESERVED)

500. TEMPORARY PRACTICE.

01. Requirements for Issuance. A permit to temporarily practice may be issued to individuals coming to Idaho who are certified/licensed in another state and are either transferring to Idaho or have a temporary assignment in Idaho. ()

02. Proof of Current Certification or Licensure. The applicant must be listed on the National Registry, maintained by the Appraisal Subcommittee, as current and in good standing and comply with Section 54-4115(3), Idaho Code, regarding irrevocable consent. ()

03. Assignments and Length of Time Permit Will Be Issued. Permit to temporarily practice will be issued on a per appraisal assignment basis for a period not to exceed six (6) months. A temporary permit may be extended one (1) time only. ()

501. -- 524. (RESERVED)

525. DISCIPLINE.

The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed or certified real estate appraiser for each violation of Section 54-4107(1), Idaho Code. ()

526. -- 539. (RESERVED)

540. APPRAISALS IN LITIGATION.

Licensed or certified appraisers providing opinions of value in litigation shall comply with USPAP Standard 1 including maintaining a work file in support of the opinion of value in litigation. ()

541. -- 699. (RESERVED)

700. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE/CODE OF ETHICS.

The Uniform Standards of Professional Practice, excluding standards 7, 8, 9, and 10, as published by the Appraisal Foundation and referenced in Section 004, are hereby adopted as the rules of conduct and code of ethics for all Real Estate Appraisers licensed under Title 54, Chapter 41, Idaho Code, and these rules. ()

701. -- 999. (RESERVED)

24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-5206, Idaho Code. ()

001. SCOPE.

These rules govern the practice and registration of construction and contractors in Idaho. ()

002. -- 149. (RESERVED)

150. APPLICATION.

The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months are deemed denied and will be terminated upon thirty (30) days written notice unless good cause is established to the Board. ()

151. -- 164. (RESERVED)

165. ADDITIONAL QUALIFICATIONS FOR REGISTRATION.

Applicants for a registration must meet the following qualifications in addition to those set forth in Section 54-5210, Idaho Code and these rules. ()

01. Felony Conviction. Not have been convicted of any felony in a state or federal court; provided the applicant may make written request to the board for an exemption review to determine the applicant's suitability for registration, which the board determines in accordance with the following: ()

02. Exemption Review. The exemption review consists of a review of any documents relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for registration. The board may, at its discretion, grant an interview of the applicant. During the review, the board considers the factors set forth in Section 67-9411, Idaho Code. ()

b. The applicant bears the burden of establishing his current suitability for registration. ()

03. Fraud in Application Process. The registration application and supporting documents are free from any fraud or material misrepresentations. ()

166. -- 174. (RESERVED)

175. FEES.

Fees are non-refundable:

FEE TYPE	AMOUNT (Not to Exceed)
Application (includes original registration)	\$50
Reciprocal	\$50
Renewal	\$50
Reinstatement	\$35
Inactive	\$0
Inactive to Active License	The difference between the inactive fee and active license renewal fee

()

176. -- 999. (RESERVED)

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-5310, Idaho Code. ()

001. SCOPE.

These rules govern the Idaho Liquefied Petroleum Gas Public Safety Act. ()

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The document titled Liquefied Petroleum Gas Code, 2017 Edition, commonly known as NFPA 58, published by National Fire Protection Association (NFPA), is herein incorporated by reference and is available for public inspection at the Board’s office. Copies of the 2017 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. ()

005. -- 174. (RESERVED)

175. FEES.

All fees are non-refundable:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Application	\$30	
Individual License	\$75	\$75
Endorsement	\$75	
Dealer-in-training	\$50	
Facility License	\$100	\$100
Bulk Storage Facility	\$400	\$400
Facility Reinspection	\$125	

()

176. – 224. (RESERVED)

225. APPROVED EDUCATION AND EXAMINATIONS.

Each applicant must provide certified proof that they have successfully completed the following: ()

01. Basic Education. The Basic Certified Employee Training Program (CETP) provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. ()

02. Licensure Examination. Receipt of a passing grade on the Basic Certified Employee Training Program (CETP) examination provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. ()

226. -- 249. (RESERVED)

250. PRACTICAL EXPERIENCE.

01. Supervised Practical Experience. Each applicant must provide certified proof that the applicant has successfully obtained at least one (1) year of practical experience in a Liquefied Petroleum Gas (LPG) facility while the applicant was under supervision of a licensed dealer. A person in the process of meeting the practical experience requirement must complete the education and examination requirements and apply for a dealer license within eighteen (18) months of beginning to obtain supervised experience. ()

02. Dealer-in-Training License. An individual may not begin obtaining supervised practical experience until the individual has applied for and obtained a dealer-in-training license from the board. Such license

is issued on a non-renewable basis and is for the purpose of enabling the individual to gain the supervised practical experience that the person must obtain to become an LPG dealer. The dealer-in-training license is valid for eighteen (18) months from the date of issue. ()

251. -- 349. (RESERVED)

350. FACILITY LICENSURE.

01. Facility Licensure and Operation Requirements. ()

a. Application for a facility license must include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications must be submitted to the Board for approval and a license must be issued before a new facility may open for business; ()

b. Each facility application must clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; ()

c. Each facility must meet all requirements of NFPA 58. ()

02. Facility Changes in Ownership or Location. ()

a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE. ()

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. ()

c. Addition of an owner to multiple ownership does constitute a change in ownership. ()

d. Whenever any facility ceases operation at the licensed location, the owner(s) must notify the Board in writing that the facility is out of business and the facility license must be submitted to the Division. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. ()

351. -- 354. (RESERVED)

355. GENERAL LIABILITY INSURANCE REQUIREMENT.

No facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars (\$1,000,000) for an occurrence. The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy. ()

01. Original Facility License Application. An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. ()

02. Renewal of Facility License. All licenses being renewed must certify that the facility holds a current general liability insurance policy. ()

356. -- 374. (RESERVED)

375. INSPECTION RULES.

All facilities are subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to

operate, or pursue disciplinary action for a failure to comply. In the event of non-compliance necessitating re-inspection, the Board may assess a re-inspection fee. ()

376. -- 399. (RESERVED)

400. ENDORSEMENT.

Any person who holds a current, unsuspended, unrevoked or otherwise nonsanctioned license in another state or country that has licensing requirements substantially equivalent to or higher than those in Idaho may, submit the required application, supporting documentation, and required fee, for Board consideration. Those applicants who received their professional education or experience outside of the United States must provide such additional information concerning their professional education or experience as the Board may request. The Board may, in its discretion, require successful completion of additional course work or examination for any applicant under this provision. ()

401. -- 449. (RESERVED)

450. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed LPG dealer or a licensed LPG facility for each violation of Section 54-5315, Idaho Code. ()

02. Costs and Fees. The Board may order a licensed LPG dealer or a licensed LPG facility to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-5315, Idaho Code. ()

451. -- 999. (RESERVED)

24.25.01 – RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-5403. ()

001. SCOPE.

These rules govern the Idaho Driving Businesses Act. ()

002. -- 099. (RESERVED)

100. DRIVING BUSINESS LICENSE.

A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. ()

01. Ownership. The owner referenced in Idaho Code § 54-5505 (1) includes the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and partners (if a partnership). ()

02. Criminal History Background Check. The applicant and all persons listed under Subsection 100.01 must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. ()

03. Classroom Locations and Certificates of Occupancy. Each applicant must list all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued for each location. ()

04. Certificate of Vehicle Insurance. The certificate of commercial automobile insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include. ()

a. Medical Payment for each person - five thousand dollars (\$5,000); and either ()

b. Limit of liability (Combined single limit) - five hundred thousand (\$500,000) to apply to bodily injury and/or property damage; or ()

c. Limit of liability (Split limit). Bodily injury - two hundred-fifty thousand (\$250,000) per person/ five hundred thousand (\$500,000) each accident; Property damage - two hundred-fifty thousand (\$250,000) each accident. ()

05. Licensed Instructors. Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. ()

06. Vehicles. An applicant for a driving business license must submit to the Division a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. ()

a. Initial Inspection. An applicant may not include a vehicle on a business's vehicle list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on a Board-approved inspection form. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given date. The application must be accompanied by a separate, signed form for each listed vehicle. ()

b. Annual Inspection. A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the

Division the inspection form evidencing that the vehicle has passed. ()

c. Incident Inspection. If a vehicle incident occurs that requires an investigation and report by law enforcement, or in which the damage exceeds one thousand five hundred dollars (\$1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Division the inspection form evidencing that the vehicle has passed. ()

d. Signage. The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include “Student Driver,” “Driver Education,” “Driver Training,” “Driving School,” or similar language that clearly designates the vehicle as a driver training vehicle. ()

07. Course of Instruction. Each applicant must provide the course of instruction it will use when instructing students. The applicant must demonstrate, to the Board’s satisfaction, that the course of instruction is designed to produce safe and effective drivers and is educationally sound. ()

08. On-line Instruction. In addition to, or in lieu of offering classroom instruction at a physical classroom location, a business licensee may offer classroom instruction to students via the internet. While a business licensee may utilize a third party to offer on-line classroom instruction, the business licensee is responsible for ensuring that the instruction content meets the requirements of these rules and is approved by the Board. ()

101. DRIVING BUSINESS -- MINIMUM CURRICULUM COMPONENTS.

The curriculum used by a driving business shall conform to the minimum standards as approved by the Board on an annual basis. The minimum standards can be found on the Board’s website and on the driving business application form. ()

102. DRIVING BUSINESS - COURSE OF INSTRUCTION.

01. In-Car Documentation. A business licensee must ensure that each listed vehicle contains documentation that identifies each student and the student’s permit number. Permits will be given to the students following the successful completion of the course and used during the required graduate licensing process. ()

02. Maximum Daily Driving and Observation Time. Neither a business licensee nor an instructor licensee may permit an enrolled student to receive more than two (2) hours of behind-the-wheel driving time per day. Maximum observation time is two (2) hours per student, per day, and may be completed with a parent or legal guardian. ()

03. Grading Criteria. A business licensee may not permit a student to graduate from the business’s driver education program unless the student has achieved an eighty percent (80%) or higher in each of the three (3) course areas described in Idaho Code § 54-5405(1) (a)-(c). The business licensee must utilize written grading criteria for each of the minimum components in the curriculum approved by the Board. Criteria may include student attitude and such other criteria as the driving business may deem appropriate. The business licensee must maintain records of the student’s grades. ()

04. Driving Log. Each driving instructor must complete a log for each student's behind-the-wheel driving and each driving business licensee must ensure that its driving instructors complete the log. The log must include the student's name, birthdate, driving permit number, class date, instructor's name lesson objective, total instruction time, total observation time, final grade, and date the student passed. ()

05. Reporting. A business licensee will send student performance information as prescribed by the Idaho Division of Motor Vehicles (DMV) to the DMV no later than five (5) p.m. on the third business day following completion of the course. ()

06. Record Retention. The business licensee must maintain all logs and other records required under Rule 227 for at least three (3) years from date on which the student completes, or is no longer enrolled in, the business’s driver education course. The business licensee may not release these records without written consent from the student and the student’s parent or legal guardian. The Board and its agents, however, may inspect these records at

any time. ()

103. DRIVING INSTRUCTOR LICENSE.

01. Driving Record and Driver's License. On a Board approved application form, each applicant must submit a copy of a valid driver's license and a copy of a satisfactory driving record. An unsatisfactory record includes, but is not limited to, two (2) moving violations in the past twelve (12) months, or suspension or revocation of a driver's license in the last thirty-six (36) months, or a conviction involving alcohol or controlled substances within the last thirty-six (36) months. ()

02. Criminal History Background Check. Each applicant must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. ()

03. Medical Certificate. A driving instructor licensee may not provide in-vehicle instruction to students if the instructor suffers from a medical condition that may impair the instructor's ability to safely instruct student drivers. Each applicant for an instructor's license must obtain a medical examination performed by a licensed medical professional. The examination must be completed within two (2) years preceding the application. A driving instructor licensee must obtain a new medical certificate every two (2) years and annually certify compliance with these requirements. The applicant must submit a medical examiner's certificate, issued and signed by a licensed, qualified medical professional. If a medical condition exists, the applicant must re-certify as the medical professional requires and submit that information to the Board. ()

04. Instructor Apprenticeship Training Program. Applicants for licensure must demonstrate to the Board's satisfaction that they have successfully completed all required classroom instruction and behind-the-wheel training hours from a Board-approved instructor apprenticeship training program. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. ()

a. Proof of successful completion must include written certificate from a Board-approved apprenticeship training program certifying that the applicant has satisfactorily completed the program. ()

b. A person may not enroll in an apprenticeship training program unless the person has applied for, paid for, and obtained an apprenticeship permit from the Board. The applicant must apply on Board-approved forms, which must identify the applicant and the business licensee in whose approved apprenticeship training program the applicant will be enrolled. The individual applicant must establish that they are at least twenty-one (21) years old. An apprenticeship permit automatically expires one (1) year after issuance. The Board also may suspend or revoke an apprenticeship permit, and refuse to issue another permit, if the permittee engages in any act or omission that would subject the permittee to discipline if the permittee had an instructor's license. No one may be a permittee for more than three (3) years. ()

05. Waiver of Instructor Apprenticeship Training Program. An applicant is entitled to a waiver of the apprenticeship training program if they provide proof to the Board that they possess the requisite training and experience requirements as set forth below: ()

a. An applicant who has held within the past five (5) years an active and unrestricted public driver education instructor license issued by the Idaho State Department of Education and has completed eight (8) hours of continuing education within the prior year or an individual who has completed the Idaho State Department of Education driving instructor program within the past five (5) years and has completed eight (8) hours of continuing education within the prior year qualifies for a waiver of the apprenticeship training program requirement. ()

104. OPERATION OF INSTRUCTOR APPRENTICESHIP TRAINING PROGRAM.

01. Application for Approval. A business licensee may operate a Board-approved instructor apprenticeship training program. The business licensee must apply for program approval on forms provided by the Board. ()

02. Apprentices. The business licensee must ensure that all persons who enroll in the licensee's program possess a valid instructor apprenticeship training permit from the Board. ()

03. Instruction and Training Hours. The program must include the instruction and training as required by Idaho Code § 54-5406 (2). ()

a. The required classroom hours may also be completed through on-line or internet based instruction. ()

b. When an apprentice begins to provide behind-the-wheel driving instruction to students, a program instructor must supervise the apprentice by riding in the vehicle with the apprentice and students for the first six (6) hours. A program instructor also must ride in the vehicle with the apprentice and students to evaluate the apprentice during the final two (2) hours of the apprentice's behind-the-wheel training. ()

04. Instructors. The business licensee must ensure that only licensed driving instructors are allowed to teach in the program. A list of the instructors must accompany the application for approval. ()

05. Recordkeeping. The business licensee must ensure that the program maintains progress records for each apprentice. A program instructor and the apprentice must sign and date the records each month, and copies of the records must be provided to the apprentice. The records must, at a minimum, identify each lesson completed, the number of hours of instruction involved in the lesson, the date the apprentice completed the lesson, the instructor who taught the lesson, and whether the apprentice passed. ()

06. Certificate of Proficiency. The program must provide each apprentice with a certificate of proficiency evidencing all hours satisfactorily completed by the apprentice while in the program, and that the apprentice is proficient in all areas covered by the certificate. ()

07. Discontinuance of Program. If the business licensee ceases to operate the program, the business licensee must provide the program's current and prior apprentices with any progress or other records that the program is required to maintain under this Section. ()

105. CONTINUING EDUCATION.

01. Continuing Education (CE) Requirement. Each Idaho licensed driving instructor must complete a minimum of eight (8) hours of continuing education every two years. ()

a. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. ()

b. Prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. ()

02. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a nationally or regionally accredited college or university, a national or state driver education and traffic safety association such as the Idaho Association of Professional Driving Businesses, Driving School Association of the Americas, the American Driver Traffic Safety Education Association, and the American Automobile Association, transportation and law enforcement agencies, or other person or entity approved by the Board and must be germane to driver education. Courses taken on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. ()

106. -- 299. (RESERVED)

300. DISCIPLINE.

01. Grounds for Discipline. In addition to the grounds for discipline listed in Section 54-5408, Idaho Code, grounds for discipline also include violating any of the following standards of conduct that have been adopted by the Board: ()

a. A licensee must not use fraud or deception in procuring or renewing, or in attempting to procure or renew, a license, permit, or other authorization issued by the Board. ()

b. A licensee must not aid, abet, or assist any person or entity in conduct for which a license or permit is required under Idaho Driving Businesses Act, unless the person or entity has the required license or permit. ()

c. A licensee must comply with final orders of the Board issued in contested cases to which the licensee is a party. ()

301. -- 399. (RESERVED)

400. FEES.
All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Original Instructor License and Annual Renewal	\$25
Instructor Apprentice Permit	\$25
Original Business License and Annual Renewal	\$125
Reinstatement	As provided in Section 67-2614, Idaho Code

()

401. -- 999. (RESERVED)

24.28.01 – RULES OF THE BARBER AND COSMETOLOGY SERVICES LICENSING BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-5807, Idaho Code. ()

001. SCOPE.

These rules regulate the professions of barbering and cosmetology. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Clean. Removal of visible or surface debris, washing with soap and water, detergent or chemical “cleaner.” Cleaning prepares non-porous items for disinfection, but cleaning does not make multi-use items safe for use. ()

02. Clinical Services or Clinical Work. Performing hands-on acts or techniques within the scope of practice of a profession regulated by the Board. ()

03. Disinfect. The process of making a non-porous item safe for use. Disinfecting requires the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. Ultraviolet (UV) light is not acceptable for disinfection. ()

04. Disinfectant. Disinfectant registered by the United States Environmental Protection Agency (EPA) and is bactericidal, virucidal and fungicidal with effectiveness against staphylococcus aureus (including methicillin-resistant staphylococcus aureus (MRSA)), human immunodeficiency virus (HIV) and hepatitis B (HEPB). This includes EPA registered Sodium Hypochlorite 5.25% or higher (household bleach) with instructions for disinfection, diluted as instructed on the label and observing the contact time listed on the manufacturer’s label. Bleach must be active (not expired) with a manufacture date of less than six (6) months prior to use. ()

05. Facility. A retail cosmetics dealer, a retail thermal styling equipment dealer, or a makeover or glamour photography business. ()

06. First-Aid Kit. First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze. ()

07. Patron. Patron means any person who receives the services of anyone licensed, certificated or otherwise regulated by the provisions of Chapter 58, Title 54, Idaho Code. ()

08. Record of Instruction. The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, by the instructor. ()

09. Single-Use. Any non-electrical item that cannot be properly cleaned and disinfected is considered single-use. This includes, but is not limited to, pumice stones, buffing blocks, wooden cuticle pushers, cotton balls, pads or swabs, toe separators and flip flops, and all nail files or emery boards that are not made entirely of metal, glass, or crystal. ()

10. Sterilize. The eradication of all microbial life through the use of heat, steam or chemical sterilants. Items to be sterilized must be cleaned prior to sterilization. ()

11. Sterilant. Autoclaves or dry heat sterilizers approved by the United States Food and Drug Administration and spore tested through an independent lab at least once every thirty (30) days. Sterilants must be used only as instructed by the manufacturer. Spore testing results and maintenance records for the most recent twelve (12) months must be kept onsite at the establishment. ()

011. -- 249. (RESERVED)

250. FEES.

All fees are non-refundable. ()

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Original License for Individual Licenses	\$25	\$25
Application	\$25	
Instructor License	\$30	\$30
Original License for Establishments	\$20	\$20
Original License for Schools	\$300	\$85
Original License or Registration for Facilities	\$20	\$20
Registration for Apprentice	\$25	
Certificate for Makeup Artist	\$25	\$25
License by Endorsement	\$35	
Reinstatement	\$35	
Examination	As set by the Administrator	

()

251. -- 299. (RESERVED)

300. QUALIFICATIONS FOR ALL LICENSES OR CERTIFICATES FOR INDIVIDUALS.

In addition to other qualifications set forth in these rules, each applicant for licensure or certification must meet the following general qualifications: ()

01. Education. Successful completion of at least two (2) years of high school or have attained an equivalent education as determined by the Board as evidenced by: ()

a. High school transcripts, a copy of a high school diploma, or a letter written on high school stationery, signed by an officer of the high school, indicating that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade; or ()

b. Documents establishing admission to or graduation from an associates, bachelors, or graduate degree program from an accredited college or university; or ()

c. Successful passage of the General Educational Development (G.E.D.) Test; or ()

d. Any test approved by the Department of Education to establish education equivalency shall be approved by the Board when an applicant receives a score approved by the Department of Education as meeting the equivalency requirement; or ()

e. Other proof of satisfactory completion of the tenth grade with eligibility to commence the eleventh grade. ()

03. Criminal and Disciplinary History. ()

a. An applicant must certify they have not engaged in conduct that would constitute grounds for discipline and have not had an application for licensure denied by another state, territory, or country. ()

b. An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony, or has been subject to discipline in another state, territory or country must submit with their application a written statement and any supplemental information establishing their current suitability for ()

- licensure or certification. ()
- c. In addition to other factors, the Board must consider: ()
 - i. The number or pattern of crimes or discipline or other similar incidents; and ()
 - ii. The circumstances surrounding the crime or discipline that would help determine the risk of repetition. ()
 - d. The Board may, at its discretion, interview the applicant. ()
 - e. The applicant bears the burden of establishing their current suitability for licensure or certification. ()

301. QUALIFICATIONS FOR LICENSE.

The Board may grant a license to an applicant for licensure who meets the requirements set forth in Section 54-810, Idaho Code, pays the required fee, meets the requirements prescribed in Section 300 of these rules, and the following education or apprenticeship, experience, and examination qualifications: ()

01. Original Barber License. ()

a. Education. For a currently licensed cosmetologist, a licensed barber school must credit eight hundred (800) hours toward the required nine hundred (900) hours for a barber course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the barber course curriculum, provided that the remaining hours of instruction must at a minimum include: ()

- i. Barber theory, including male haircuts, and ()
- ii. Shaving. ()

b. For a currently licensed barber in another state, territory, possession or country, and who does not meet the qualifications for licensure by endorsement, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barbering. ()

02. Original Barber-Stylist License. ()

a. For a currently licensed cosmetologist, a licensed barber school must credit one thousand four hundred (1,400) hours toward the required one thousand five hundred (1,500) hours for a barber-stylist course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the barber-stylist course curriculum, provided that the remaining hours of instruction must at a minimum include the following: ()

- i. Barber theory, including male haircuts, and ()
- ii. Shaving. ()

b. For a currently licensed barber-stylist in another state, territory, possession or country, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barber-styling. ()

03. Original Cosmetologist License. ()

a. Education. For a currently licensed barber-stylist, a licensed cosmetology school must credit one thousand three hundred (1,300) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the cosmetology course curriculum, provided that the remaining hours of instruction must at a minimum include the following: ()

- i. Nail technology; ()
- ii. Esthetics; and ()
- iii. Cosmetology theory, including female hairstyling. ()

b. For a currently licensed barber, a licensed cosmetology school must credit nine hundred (900) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The school must submit for the Board’s approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the cosmetology course curriculum, provided that the remaining hours of instruction must at a minimum include the following: ()

- i. Working on the hair with chemicals; ()
- ii. Nail technology; ()
- iii. Esthetics; and ()
- iv. Cosmetology theory, including female hairstyling. ()

c. A currently licensed esthetician, haircutter, or nail technician must be given credit of two hundred (200) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course or four hundred (400) hours toward the required three thousand two hundred (3,200) hours as a cosmetology apprentice. ()

d. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for a cosmetology course, or a licensed instructor may credit up to one hundred (100) hours toward the required apprenticeship hours. ()

e. For an esthetician, haircutter, or nail technician student, a licensed cosmetology school may credit eighty percent (80%) of accumulated hours, but no more than two hundred (200) hours, toward the required instructional hours for a cosmetology course. ()

f. For a currently licensed cosmetologist in another state, territory, possession or country, one hundred (100) hours of instruction or two hundred (200) hours as an apprentice may be credited for each six-month period of practical experience in cosmetology. ()

04. Original Electrologist License. Education. For a currently licensed electrologist in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in electrology. ()

05. Original Esthetician License. ()

a. Education. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for an esthetics course or, a licensed instructor may credit up to one hundred (100) hours toward the required apprenticeship hours. ()

b. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for an esthetics course for a cosmetology student. ()

c. For a currently licensed esthetician in another state, territory, possession or country, sixty (60) hours of instruction or one hundred twenty (120) hours as an apprentice may be given for each six-month period of practical experience in esthetics. ()

06. Original Nail Technician License. ()

a. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the

required instructional hours for a nail technology course for a cosmetology student. ()

b. For a currently licensed nail technician in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in nail technology. ()

07. Makeup Artist Certificate. ()

a. Education/Training. Successful completion of instruction of not less than one hundred (100) hours in makeup artistry, which must include instruction and practical experience in safety and infection control. Hours may be classroom instruction, training, practical experience, or a combination. Instruction may be received from one (one) or more of the following sources: ()

i. A cosmetology school licensed in this state or another state, territory, possession, or country; ()

ii. A cosmetology or esthetics instructor licensed in this state or another state, territory or possession; ()

iii. A retail cosmetics dealer licensed in this state or another state, territory or possession; or ()

iv. Other source of instruction that includes: ()

(1). Knowledgeable and experienced instructor with a record of safe practices; ()

(2). Instruction in client safety and safe product selection; and ()

(3). Hands-on practice and training in infection control. ()

v. Any combination of the sources listed in Subsections 301.07.a.i. through a.iv. of this rule. ()

b. Documentation of Education/Training. An applicant may present proof of education/training in makeup artistry in the following ways: ()

i. A current cosmetology or esthetician license from another state, territory, possession or country. ()

ii. Transcripts or records of instruction. ()

iii. Documentation of work history and training as an employee for a retail cosmetics dealer licensed in this state or another state, territory or possession of the United States. ()

iv. Membership in the International Alliance of Theatrical Stage Employees Make-Up Artists and Hair Stylists Guild or other similar organization whose membership requirements meet or exceed the requirements of these rules. ()

v. Documentation of other training/experience must include: ()

(1). Identity and qualifications of the person delivering the instruction/training; ()

(2). Method of instruction/training and amount of hands-on training provided; and ()

(3). Subject matters covered, particularly pertaining to topics listed in Subsection 301.07.a.iv of these rules. ()

c. Additional Education/Training. The Board may require an applicant who does not have a documented record of sufficient training in safety and infection control to obtain additional training or other

demonstration of competency in that area. ()

302. -- 308. (RESERVED)

309. QUALIFICATIONS FOR INSTRUCTOR LICENSE.

The Board may grant a license to an applicant for licensure as an instructor who meets the requirements set forth in Section 54-5810(3), Idaho Code, and meets the following education requirements: ()

01. Course of Instruction. Have satisfactorily completed the corresponding teacher's course of instruction: ()

a. A minimum three (3) month course of barber instructing, barber-stylist instructing, or cosmetology instructing as a student in a licensed school, if the applicant has at least two (2) years of experience as a licensed barber, barber-stylist, or cosmetologist, provided that the course consist of no less than five hundred (500) hours; or ()

b. A minimum six (6) month course of barber instructing, barber-stylist instructing, or cosmetology instructing as a student, depending upon which license applying for, provided that the course consist of no less than nine hundred (900) hours. ()

02. Credit Hours. Earned twelve (12) college credit hours or the equivalent. Credit hours must be obtained from the Education Department, Speech Communications Department or from the Psychology/Sociology Department and other credit at the discretion of the Board. Equivalency is determined as: ()

a. Completion of teaching seminars focusing on barbering, barber-styling, cosmetology, nail technology, esthetics, or electrology approved by the Board. Fourteen (14) clock hours is equivalent to one (1) semester college credit hour in an approved seminar. Verification of satisfactory completion must be submitted to the Board for its approval; or ()

b. Verified satisfactory teaching as a qualified instructor from another state for one (1) of the previous three (3) years immediately prior to application. ()

310. SINGLE LICENSE REQUIRED TO PRACTICE AND INSTRUCT.

The holder of a license issued by the Board who is subsequently issued an instructor license is permitted to maintain a single license to practice. ()

01. Scope. An instructor license issued by the Board permits the holder to both practice and instruct only within the scope of the license(s) held. ()

02. Barber Stylist Instructor. The holder of a cosmetologist license who is subsequently issued a barber-stylist instructor license may not practice or instruct elements of barbering or barber-styling that are outside the definition of cosmetology unless the licensee also has been issued a license as a barber or barber-stylist by the Board. ()

311. APPROVED EXAMINATION.

Approved examinations shall be the written and practical examination provided by the National Interstate Council of State Boards of Cosmetology (NIC) for the discipline for which licensure is sought. A passing score must be obtained on both the written and practical examination. A passing score will be determined by NIC. ()

312. (RESERVED)

313. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.

01. Licensure. The Board may grant a license to an applicant for licensure by endorsement who: ()

a. Meets the education requirements set forth in Subsection 300.01 of these rules. ()

- b. Holds an unrestricted license free from discipline. ()

02. Hold a Current License and Have Experience. The applicant must be the holder of a current active license or certificate of qualification in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity in another state, territory, possession, or foreign country. The certification of licensure must be received by the Board from the issuing agency; and ()

- a. Must show that the state, territory, possession, or foreign country has licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho; or ()

- b. Document at least one (1) year of actual practice under certification or licensure in the three (3) years immediately prior to application in the profession for which a license is being sought. ()

314. -- 324. (RESERVED)

325. LICENSURE AND OPERATION OF PRIMARY AND CONTIGUOUS ESTABLISHMENTS.

Except as otherwise provided in statute and these rules, a licensed individual must practice within a licensed establishment. An establishment may be licensed as a primary establishment or a contiguous establishment that operates within a primary establishment. A primary establishment license must be issued prior to the opening or operation of any barber or cosmetology establishment. ()

01. Primary Establishment License. A primary establishment license may be issued and annually renewed only under the following conditions: ()

- a. There is a clearly defined and designated working floor space of adequate dimension to allow the safe and sanitary practice of any one (1) or combination of defined practices of cosmetology or barber-styling for all individual stations that may be in operation in addition to any restroom and access areas; and ()

- b. There is an approved hot and cold running water source and drainage system that is available to any contiguous establishment or other establishment or facility that may exist; and must be within the perimeters of the licensed establishment and separate from the toilet facilities; and ()

- c. There are restroom facilities conveniently located and accessible from within the building in which the primary establishment is located and which shall be accessible from the primary area and to all areas designated for the operation of contiguous establishments. Restroom facilities shall contain an approved hot and cold running water source and approved drainage system. The water source shall be in addition to the work area facilities; and ()

- d. The holder of the primary establishment license is responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the designated licensed area of the primary establishment, including areas that are cooperatively or jointly used as “common areas” such as shampoo bowls, restrooms, entrance or reception areas. ()

02. Contiguous Establishment License. A contiguous establishment license may be issued and annually renewed only under the following conditions: ()

- a. A license must be issued prior to the opening or operation of any barber or cosmetology contiguous establishment; and ()

- b. The contiguous establishment is associated with a currently licensed primary establishment and a holder of the primary establishment license provides proof that the primary shop is equipped to meet the safety and disinfection requirements and rules of the Board; and ()

- c. The contiguous establishment shall only operate in the contiguous establishment designated areas within the associated primary establishment. ()

d. The holder of the contiguous establishment license will be responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the contiguous designated area where it operates. ()

03. Businesses Other Than a Licensed Establishment or Facility. Businesses other than one licensed under Chapter 58, Title 54, Idaho Code, and living quarters shall be separate and apart. Home establishments must provide a separate outside entrance directly into the establishment and substantial partitions or walls shall extend from the floor to not less than seven (7) feet high, separating the establishment from adjoining rooms used for business or domestic purposes. All doors to an establishment from adjoining rooms shall be closed. ()

04. Conditions for Issuance. No primary establishment license may be issued which includes or overlaps all or any portion of an existing establishment license. ()

326. ESTABLISHMENT AND FACILITY CHANGES IN OWNERSHIP OR LOCATION.

Whenever a change of ownership or fixed location of an establishment or facility occurs, an original license fee must be paid and compliance with all rules concerning a new establishment or facility must be met before a new license or registration will be issued. Establishment and facility licenses or registration are not transferable. ()

01. Board Must Be Informed of All Changes. The Board must be informed in writing of any and all changes of ownership and location of establishments or facilities. ()

02. Deletion of an Owner. Deletion of an owner in a multiple ownership may be effected by filing a written statement with the Board signed by the person withdrawing and the remaining owner(s). ()

03. Transfer of Ownership. If the transfer involves change of corporate structure or deleting one (1) or more owners, a written notarized statement signed by all former owners as registered with the Board shall be accepted. ()

04. Addition of an Owner. Addition of an owner to a multiple ownership constitutes a change in ownership and the requirements for a new establishment or facility apply. ()

05. Out of Business. Whenever any establishment or facility ceases operation at the licensed or registered location, the owner(s) or authorized agent of the establishment or facility shall notify the Board by submitting: ()

a. A signed letter by the owner(s) or authorized agent advising that the establishment or facility is out of business; or ()

b. The establishment or facility license or registration bearing the signature of the owner(s) or authorized agent and marked out-of-business; or ()

c. For a contiguous establishment license, a signed statement by the associated primary establishment advising that the contiguous establishment is out of business. ()

d. In the event that the Board has not been notified about the cessation of operations pursuant to this rule and documentation or evidence has been obtained that an establishment or facility has ceased operation at the licensed or registered location, the Board may cancel the establishment license or facility registration upon a thirty (30) day written notice to the owner(s) or authorized agent of the establishment or facility. ()

06. License Status. A new primary establishment license will not be issued for any location that is currently licensed as a primary establishment at the time of application. ()

327. RETAIL COSMETICS DEALER LICENSE.

The Board may grant a retail cosmetic dealer license to allow the application of cosmetic products to customers' faces in connection with the sale of the products. ()

01. Requirements. All retail cosmetic dealers shall provide an area within the business premises for

disinfection and storage of equipment and supplies necessary to perform any cosmetic application services provided. The business premises must have: ()

- a. Access to hot and cold running water; ()
- b. Access to restroom facilities; ()
- c. Disinfectants, as defined in these rules; ()
- d. Single-use samples, wipes, spatulas or other dispensing techniques designed to prevent contamination of the cosmetic product; and ()
- e. First-aid kit. ()

328. RETAIL THERMAL STYLING EQUIPMENT DEALER REGISTRATION.

The Board may grant a registration as a retail thermal styling equipment dealer to an applicant who meets the following requirements: ()

01. Training. The dealer is responsible to train all employees on the proper and safe use of the thermal styling equipment and all disinfection related to the demonstration of the equipment prior to permitting an employee's use of the equipment on customers. ()

02. Requirements. All retail thermal styling equipment dealers shall provide the equipment and supplies necessary to perform any demonstration of the thermal styling equipment. The area where the demonstration is being performed must have: ()

- a. Disinfectants, as defined in these rules; and ()
- b. First-aid kit. ()

329. -- 499. (RESERVED)

500. BARBER AND COSMETOLOGY SCHOOL REQUIREMENTS.

The Board may grant a license to an applicant for licensure to operate a barber or cosmetology school who meets the following requirements: ()

01. Premises. The premises of a barber or cosmetology school must: ()

- a. Possess sufficient apparatus and equipment for the proper and full teaching of all subjects or its curriculum. ()
- b. Provide adequate space, ventilation, lighting, and facilities to safely accommodate all students, instructors, and customers. ()
- c. Provide a restroom with a sink with hot and cold running water and approved drainage system. ()

02. Faculty or Instructors. ()

a. A school must be under the direct, personal supervision at all times of a licensed cosmetology instructor if a cosmetology school or a licensed barber or barber-stylist instructor if a barber school and must employ and maintain a licensed instructor for every twenty (20) students or fraction thereof, with an instructor trainee counting as an instructor for the purposes of the student-instructor ratio. ()

b. A cosmetology school that teaches electrology must be under the direct, personal supervision at all times of one (1) licensed electrologist instructor for every six (6) students or portion thereof being trained therein. ()

c. An instructor shall teach only those subject areas for which the instructor has been issued a license by the Board to practice. ()

d. Instructors must devote their time during school or class hours to instructing students rather than engaging in occupational practice. ()

03. Operations. A barber or cosmetology school must: ()

a. Maintain regular class and instruction hours, establish grades and hold monthly examinations. This information will be transferred to the record of instruction; ()

b. Prescribe a school term for training in all aspects of the practice being taught; and ()

04. Curriculum. Any proposed changes to a curriculum or catalog must be approved by the Board. The submission must identify what specific changes are being made to the curriculum. ()

a. A school must submit a curriculum and course catalog that covers the subjects, as set forth in Section 54-5815, Idaho Code, relating to the profession for which the school is seeking approval to teach. ()

b. A cosmetology school that teaches electrology must submit a curriculum and course catalog that covers the subjects relating to electrology as set forth in Section 54-5815(1), Idaho Code. ()

c. A school may teach no more than fifty percent (50%) of its curriculum through distance education. ()

05. Clinical Work. Each school shall advertise to the public that it is a school and that all work is done by students. The clinic area shall not have connecting entrances to establishments or businesses other than barber or cosmetology schools. ()

a. Students shall not be permitted to render any clinical service to patrons until students have completed at least five percent (5%) of the required hours of instruction. ()

b. All clinical work shall be performed under the supervision of a licensed instructor. ()

c. Clinical work shall be recorded on the record of instruction for each month. ()

06. Outside School Activities. Schools may credit a student with a maximum of thirty (30) hours toward the required hours of instruction for a course of instruction for activities that take place outside the school. These hours must be approved by the instructor. ()

07. Student Records To be Maintained by the School. A school must maintain the following records for each enrolled student: ()

a. Proof of age showing student is no less than sixteen and one-half (16 ½) years of age; ()

b. Proof of showing student has satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education as evidenced in a manner identified in Subsection 300.02 of these rules; ()

c. Record of instruction for each student showing the classroom hours, the clinical hours, and operations done for each month in which the student is enrolled; and ()

d. When a student's course of instruction has been completed or terminated, the completed operations, and number of hours of instruction are to be recorded by the school on the record of instruction form. This form is to be provided to the student and maintained by the school for five (5) years from completion or termination. ()

08. Change in Ownership or Location. ()

- a. Licenses are not transferable. ()
- b. A new application must be submitted to the Board and a license issued for a new or additional location or a change of ownership of an existing school. ()
- 09. Cessation of School.** When a school ceases to operate as a school, the school must provide each enrolled student their records of instruction at or before the cessation of operations. ()
- 10. Rules for Cosmetology Schools Approved to Teach Electrology.** ()
 - a. Schools will provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. ()
 - b. Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. ()
 - i. Work stations equal to seventy-five percent (75%) of total enrollment; ()
 - ii. Two (2) brands of machines, one (1) of which has three (3) method capability: Galvanic, Thermolysis, and Blend; ()
 - iii. Two (2) treatment tables and adjustable technician chairs; ()
 - iv. Two (2) swing arm lamps with magnifying lens; ()
 - v. Two (2) magnifying glasses; ()
 - vi. Tweezers; ()
 - vii. One (1) basin with approved water source; ()
 - viii. Necessary sanitation equipment for implements; and ()
 - ix. Closed storage cabinet. ()
 - c. Student Supplies. Each student is to be issued a basic kit containing two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clips, and one (1) sharps container. ()

501. (RESERVED)

502. EDUCATIONAL PROGRAM STANDARDS FOR COURSES OF INSTRUCTION.

A licensed school must maintain the following educational program standards for each course of instruction for which it is approved to teach. ()

- 01. Barber.** Coursework must include courses in the following content areas: ()
 - a. Haircut; ()
 - b. Blow dry (does not include haircut); ()
 - c. Shampoo; ()
 - d. Shave and Beard Trim; ()
 - e. Facial; ()

- f. Hair and Scalp Treatment; ()
- g. Curling Iron; and ()
- h. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. ()
- 02. Barber-Stylist.** Coursework must include courses in the following content areas: ()
 - a. Haircut; ()
 - b. Style/blow dry (does not include haircut); ()
 - c. Shampoo; ()
 - d. Permanent Wave; ()
 - e. Shave and Beard Trim; ()
 - f. Facial; ()
 - g. Color/Bleach/Rinse; ()
 - h. Hair and Scalp Treatment; ()
 - i. Curling Iron; and ()
 - j. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. ()
- 03. Cosmetology.** A record of the operations completed by each student shall be maintained and include the following: ()
 - a. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; ()
 - b. Scalp Treatments; ()
 - c. Permanent Waves (All Methods); ()
 - d. Haircutting/shaping which shall include scissor and razor/clipper; ()
 - e. Bleaching; ()
 - f. Tinting; ()
 - g. Semi Permanent/Temporary Color; ()
 - h. Frosting/Highlights; ()
 - i. Facials; ()
 - j. Makeup Application; ()
 - k. Waxing; ()

- l.** Manicures which shall include plain and oil; ()
- m.** Pedicures ()
- n.** Artificial Nails; and ()
- o.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. ()
- 04. Esthetics.** The recorded operations completed by each student shall be maintained and include the following: ()

 - a.** Massage and manipulation application of lotions, creams, tonics, solutions, skin care masks, and similar cosmetic preparations and their effects on the skin and body; ()
 - b.** Cleansing, steaming, exfoliation, and extraction procedures; ()
 - c.** Cosmetics and makeup application; ()
 - d.** Machine Application: use of mechanical or electrical equipment; ()
 - e.** Bacteriology, disinfection and sterilization, and safety precautions; ()
 - f.** Human anatomy, physiology and histology of skin care; ()
 - g.** Follicle growth cycle and hair removal procedures; ()
 - h.** Skin analysis, conditions, disorders, and diseases; and ()
 - i.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. ()
- 05. Nail Technology.** The recorded operations completed by each student shall be maintained and include the following: ()

 - a.** Form nails; ()
 - b.** Finished tips; ()
 - c.** Wraps and mends; ()
 - d.** Basic manicures and pedicures; and ()
 - e.** Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. ()
- 06. Electrology.** The recorded operations completed by each student shall be maintained and include the following: ()

 - a.** Bacteriology, disinfection and sterilization, safety precautions, anatomy, and physiology; ()
 - b.** Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment; ()
 - c.** Electrolysis which shall include the use and study of galvanic current; ()
 - d.** Thermolysis, including the use and study of high frequency current, automatic and manual; ()

- ()
- e. A combination of high frequency and galvanic currents; ()
- f. The study and cause of hypertrichosis; and ()
- g. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. ()
- 08. Instructor.** The recorded operations completed by each student shall be maintained and include the following: ()

 - a. Lesson planning; ()
 - b. Audio-Visual aid preparation; ()
 - c. Theory class; ()
 - d. Practical demonstrations; ()
 - e. Testing and evaluation theory; ()
 - f. Testing and evaluation; and ()
 - g. Clinic floor supervision. ()

503. -- 549. (RESERVED)

550. APPRENTICE REGISTRATION AND APPRENTICESHIPS.

The Board may issue a registration as an apprentice to allow a person to engage in any of the practices licensed under Section 54-5815, Idaho Code, while completing the required instructional hours for a license or certificate. An apprentice may only practice under direct supervision as provided below. ()

01. Application and Qualifications. An applicant must submit a completed application on a form approved by the Board, pay the required fee, and meet the following qualifications: ()

- a. Be at least sixteen and one-half (16 ½) years of age; ()
- b. Have successfully completed at least two (2) years of high school or have attained an equivalent education as determined by the Board as evidenced in a manner identified in Subsection 300.01 of these rules; ()
- c. Have certification from the establishment that the applicant is enrolled as an apprentice in the establishment; ()
- d. Identify the names and license numbers of the licensed cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which the applicant will serve as an apprentice; and ()
- e. Identify the name(s) and license number(s) of the licensed instructors who will instruct the applicant during the apprenticeship. ()

02. Instruction. The instructor for any apprenticeship must submit to the Board a curriculum for the entire course of apprenticeship instruction. The Board must approve the curriculum prior to the beginning of instruction. The curriculum must cover the subjects relating to the profession for which the apprentice is pursuing licensure as set forth in Section 54-5815(1)(g), Idaho Code. ()

03. Supervision. There must be at least one (1) licensed instructor and one (1) separate supervising

licensee for each apprentice in the establishment at all times when an apprentice is being trained, except that an electrology apprentice may be supervised solely by the electrology instructor. ()

a. The instructor must be licensed to teach the profession for which the registrant is pursuing licensure and the supervising licensee must be licensed to practice the profession for which the apprentice is pursuing licensure. ()

b. An instructor may not train more than three (3) currently registered apprentices, except that an electrology instructor may not train more than one (1) currently registered electrology apprentice. ()

c. An establishment may not have more than six (6) currently registered apprentices, unless otherwise approved by the Board. ()

d. An establishment or an instructor under current discipline may not supervise an apprentice. ()

e. An apprentice shall not be permitted to render any clinical service to patrons until the apprentice has completed at least five percent (5%) of the required hours of instruction. ()

04. Recordkeeping. Establishments employing an apprentice shall keep a daily work record of the attendance of the apprentice and a record of the types of instruction given and the work performed by the apprentice as set forth below. ()

a. An apprentice must be given monthly progress records, and the monthly record shall be signed and dated by the apprentice and the instructor. The establishment shall maintain the records for a period of five (5) years following completion or termination of the apprentice instruction. ()

b. When an apprentice's course of instruction has been completed or terminated, the completed operations and number of hours of instruction are to be recorded by the establishment on the Record of Instruction Form. The instructor must submit the Record of Instruction to the Board within fourteen (14) days of the completion of the apprenticeship. The establishment must maintain a copy of the Record of Instruction for a period of five (5) years from completion or termination date. ()

c. Attendance, instruction, and work records must be kept in the establishment in which the apprentice is employed. ()

d. Apprenticeship records are subject to inspection by the Board at any time. ()

05. Termination of Registration. A registration as an apprentice is valid from the date of issuance until the apprentice is no longer enrolled as an apprentice in the establishment identified on the apprentice's application. ()

a. When an apprentice discontinues a course of study, the establishment must complete a Record of Instruction Form with the total number of hours worked and the types of instruction given to the apprentice. The Record of Instruction Form must be submitted to the Board within thirty (30) days of the discontinuance of the apprenticeship. If an apprentice discontinues a course of instruction and does not transfer to another salon within sixty (60) days, the apprentice registration is automatically canceled and is to be submitted to the Board along with the Record of Instruction. ()

b. When an establishment where apprentices are being trained ceases operation as an establishment, the establishment must submit the records of instruction for each apprentice to the Board within thirty (30) days. ()

c. An apprentice who has discontinued a course of study must apply for and be granted a new registration under Subsection 550.01 of these rules, prior to resuming instruction. ()

06. Out of State Apprenticeship. An applicant who has received instruction as an apprentice in another state must file with the Board a copy of the record of instruction from the out of state apprenticeship. For

purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or instructor(s) in the state in which the instruction was obtained. ()

07. **Apprenticeship Length.** An apprenticeship registration must not exceed the following lengths of time: ()
- a. Barber: fifty-seven (57) weeks; ()
 - b. Barber-Stylist: ninety-four (94) weeks; ()
 - c. Cosmetologist: one hundred four (104) weeks; ()
 - d. Estheticians/Electrologist: thirty-eight (38) weeks; ()
 - e. Nail Technicians: twenty-five (25) weeks. ()

551. -- 709. (RESERVED)

710. PRACTICE OUTSIDE OF A LICENSED ESTABLISHMENT.

All licensees and certificants must practice in a place or establishment that is licensed for such practice, except as provided for in Section 54-5804, Idaho Code, or when the services provided by the licensee or certificant are limited to the following: ()

- 01. **Hair Styling.** Arranging, styling, dressing of the hair. Trimming of the hair may be performed when it is incidental to the arranging, styling, or dressing of the hair, including facial hair such as beards, mustaches, and eyebrows. ()
- 02. **Coloring.** Wash out topical color, tinted powder, spray or chalk to temporarily camouflage the hair. ()
- 03. **Extensions.** Application of extensions with non-permanent adhesive or thread, such as clip in hair, halos, wig and toupees. ()
- 04. **Temporary Hair Removal.** Tweezing of hairs on the face and neck. ()
- 05. **Cleansing.** Cleansing of the face for the limited purpose of removing makeup and debris and cosmetic preparations for the application of makeup. ()
- 06. **Nail Services.** Application of nail polish by painting without the use of a lamp or light, removal of polish that is incidental to the painting of the nail, and shaping of the nail with a single-use emery board. ()
- 07. **Makeup Application.** Application of makeup, except for the certified makeup artists. ()
- 08. **Safety and Disinfection.** All licensees and certificants must comply with the safety and disinfection rules applicable to the services being performed, regardless of the location where the services are performed. ()

711. -- 799. (RESERVED)

800. UNPROFESSIONAL CONDUCT.

A licensee shall not engage in unprofessional conduct in the course of their practice. Unprofessional conduct is conduct which has endangered or is likely to endanger the health, welfare, or safety of the public and includes, but is not limited to, the following: ()

- 01. **Use of MMA.** Use of Methyl Methacrylate acid (MMA); ()

02. Use of Skin Cutting Instruments. Use of skin cutting instruments, including razor-type callus shavers, credo blades, microplane, or other rasps or graters designed to remove corns or calluses by cutting below the skin surface. The presence of such instruments creates a presumption of the instrument's use; ()

03. Use of UV Sterilizers. Use of ultraviolet (UV) sterilizers for disinfection. This does not prohibit the use of ultraviolet dryers or lamps used to dry or cure nail products; ()

04. Use of Roll-on Wax. Use of roll-on wax, except that single-use roll-on wax cartridges are acceptable when they are disposed of immediately after use; ()

05. Double-Dipping. Placing an item or instrument that has been used on a person into a wax pot or other container that holds wax, a compound, solution, or other cosmetic preparation that will be used for more than one (1) than patron. This prohibited practice is commonly referred to as double-dipping; ()

06. Reuse of Single-Use or Porous Items. Use of single-use or porous items on more than one (1) patron. The presence of used single-use or porous items, which have not been disposed of, creates a presumption of the item's use or intended use on more than one patron. ()

07. Apprentices. Failure to adequately supervise, instruct, or train an apprentice; ()

08. Inspections and Investigations. Interference with an inspection or investigation conducted by or on behalf of the Board; ()

09. Disease Transmission Prevention. Performing a service on a patron who has an open sore or a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically-approved measures to prevent transmission of the disease; or ()

10. Practice Outside Scope of Training. Performing services or using machines or devices outside the licensee's area of training, expertise, competence, or scope of practice for the license held. ()

801. -- 849. (RESERVED)

850. INSPECTION OF ESTABLISHMENTS, SCHOOLS AND FACILITIES.

All establishments, schools, and facilities shall be subject to inspection by the Board or its agents during business hours without notice to ensure the safe operation of each establishment, school, or facility and to ensure continued compliance with Chapter 58, Title 54, Idaho Code, and these rules. ()

01. Form. The Board may adopt a form which identifies those general items that will be inspected and a level of compliance necessary for issuance or renewal of a license and for which a failure to meet that level is grounds for discipline. ()

02. Classification Card. Following an inspection, each establishment, school, and facility, except for retail thermal styling equipment dealers, will receive classification as follows: 100%–90% = "A"; 89%–80% = "B"; 79% and below = "C." The "C" classification denotes an unacceptable level of compliance and a reinspection is required. ()

03. Reinspection. A facility, school, or establishment not found to be at an acceptable level of compliance must make improvements within thirty (30) days. The Board may allow an establishment, school, or facility to continue to operate during that period. The Board may take action prior to any reinspection when the circumstances represent an immediate danger to the public health, safety, or welfare. ()

851. SAFETY AND DISINFECTION FOR ESTABLISHMENTS AND SCHOOLS.

All establishments and schools must take every precaution to prevent the transfer of disease-causing pathogens between people and must meet annual renewal requirements and the following requirements: ()

01. Premises. Establishments and schools must be separated from living areas by substantial walls and/or closable doors. All establishments and schools must be maintained in an orderly manner, so as to be safe and

comfortable to the operators and patrons. Floors, walls, ceilings, furniture, and all other fixtures shall be kept clean and in good repair at all times. ()

02. Instrument Cleaning. All instruments and items used by operators shall be thoroughly cleaned after each use and prior to disinfection. ()

03. Instrument Disinfection or Sterilization. All instruments and items used by operators shall be disinfected or sterilized after cleaning and prior to use on each patron, with a disinfectant or sterilant as defined in these rules. All disinfectant must be mixed and changed according to the manufacturers' instructions. Disinfection methods such as immersion, sprays, and wipes may be used. Contact time listed on the disinfectant's label must be adhered to in all circumstances. Items or surfaces must remain completely immersed in disinfectant, or visibly wet if using sprays or wipes, for the full amount of contact time. ()

04. Single-Use and Porous Instruments. Instruments and items that are intended for single use or that are porous shall be immediately disposed of in a waste container after each use on a patron or given to the patron to take home for personal use, provided that the instruments may not be brought back to the establishment for future use. ()

05. Waxes and Waxing Services. Paraffins, waxes and all other solutions or compounds shall be covered and maintained free of any foreign contaminants. Only disinfected or unused, single-use items may be placed into a container that holds wax or paraffins. Waxes and paraffins must be dispensed for use on a patron in the following manner: ()

a. Wax may be removed from a multi-use wax pot for use on a patron by one of the following methods: ()

i. Single-use spatula disposed of after a single dip/application; ()

ii. Disinfected plastic spatulas with one disinfected spatula used for each dip into the wax pot; or ()

iii. Placement of all wax needed for entire service in a single-use, disposable cup or a container that can be properly cleaned and disinfected, such as a stainless steel bowl. The cup, any remaining wax, and all single-use applicators must be immediately disposed of at the conclusion of the service. This is the only instance in which a single applicator may be used for an entire service. ()

b. Paraffin wax must be portioned out for each patron in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply. All portions used on a patron must be disposed of immediately following use. ()

06. Makeup Services. All makeup and makeup services must follow the requirements in Section 852 of these rules. ()

07. Nail Services. A licensee must comply with the following disinfection procedures between every patron: ()

a. All pedicure bowls, basins or tubs must be cleaned and disinfected prior to each use as follows: ()

i. Empty pedicure bowl. ()

ii. Remove all removable parts, including screens, foot plates, impellers and fans. ()

iii. Clean removable parts with soap or detergent and water, rinse, and immerse parts in disinfectant following manufacturer's directions for proper contact time. ()

iv. Scrub bowl with soap or detergent and rinse with clean water. ()

- v. Replace removable cleaned and disinfected parts. ()
 - vi. Fill bowl and add disinfectant to achieve proper concentration. ()
 - vii. Allow disinfectant solution to sit, or run through system for bowls with circulating water for the manufacturer's recommended contact time. ()
 - viii. Drain the tub, rinse and air dry or wipe dry with clean paper towel. ()
- b.** Metal drill bits may be soaked in acetone to remove nail product. When removed from the acetone, they must be cleaned using soap, water, and a brush, and then rinsed prior to immersion in disinfectant. Drill bits must remain in disinfectant for the full contact time. ()

08. Water Supply and Hand Washing. Water supplies shall be from an approved source. Sufficient basins with hot and cold running water, approved drainage systems, soap and single-use towels shall be conveniently located within the work area. Operators and students shall wash their hands with running water and soap prior to providing service to any patron. When hand washing is not practicable, hand sanitizer of at least seventy percent (70%) alcohol may be used. ()

09. Restroom Facilities. Clean, adequate and convenient restroom facilities, located and accessible from within the building where the shop or school is located, shall be available for use by operators and patrons. All operators and students must wash their hands with running water and soap and then dry their hands with a single-use towel after using the restroom. ()

10. Safety. Clearly identifiable first-aid kit must be readily accessible on the premises. No animals are allowed in shops or schools except service dogs trained to do work or perform tasks for persons with disabilities. The definition of service animals and disabilities shall be as set forth in U.S. Department of Justice Regulations at 28 C.F.R. Section 36.104 effective August 11, 2016. ()

11. Licenses and Classification Cards. All establishments and schools must be licensed prior to their operation and must be under the direct supervision of a licensed operator. A current establishment and/or school license, valid operator license(s), a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each establishment or school for the information of operators, Board agents, and the public. ()

852. SAFETY AND DISINFECTION FOR RETAIL COSMETICS DEALER FACILITIES AND MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESSES.

All retail cosmetic dealers and makeover or glamour photography businesses must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer or business must meet the following requirements: ()

01. Cake, Loose, or Liquid Makeup. All makeup that comes in a cake, loose, or liquid form, must be transferred to a palette with a disinfected or single-use spatula for use with a single customer and in a manner to prevent any contamination. Any excess make-up must be disposed of immediately following use on or by a customer. ()

02. Makeup Pencils. Make-up pencils that require a sharpener must be sharpened prior to each use. Sharpeners must be cleaned and disinfected in accordance with Subsections 851.02 and 851.03 of these rules. Eyeliner that does not require a sharpener must have a portion transferred to a palette with a disinfected or single-use spatula for use on a single customer. ()

03. Mascara. Single-use applicators must be used in the application of mascara. ()

04. Brushes and Implements. All implements and applicators, including brushes, that are used on customers or made available to be used by customers must be stored, cleaned, and disinfected or disposed of in accordance with Section 851 of these rules. ()

05. Displays. All make-up should be covered when not in use. When make-up displays are accessible to the public, single-use applicators for all make-up must be readily available. ()

06. Water Supply and Restroom Facilities. The facility or business must meet the requirements in Subsections 851.08 and 851.09, and Section 853 of these rules. ()

07. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. ()

08. Licenses and Classification Card. All retail cosmetics dealers and glamour or makeover photography businesses must be licensed prior to their operation. A current license, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. ()

853. SAFETY AND DISINFECTION FOR RETAIL THERMAL STYLING DEALER FACILITIES.
All retail thermal styling equipment dealers must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer must meet the following requirements: ()

01. Cleaning, Disinfection, and Storage. All implements and electrical equipment used on a customer must be cleaned, disinfected, and stored in accordance with Subsections 851.02, 851.03, and 851.04, of these rules. ()

02. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. ()

03. Registration and Classification Card. All retail thermal styling equipment dealers must be registered prior to their operation. A current registration, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. ()

854. -- 999. (RESERVED)

**24.29.01 – RULES OF PROCEDURE OF THE IDAHO CERTIFIED
SHORTHAND REPORTERS BOARD**

000. LEGAL AUTHORITY.

These rules are adopted under the authority of Section 54-3107, Idaho Code. ()

001. SCOPE.

These rules govern the practice of shorthand reporting in Idaho. ()

002. -- 124. (RESERVED)

125. FEES.

All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$50
Examination	\$50
Renewal	\$75
Examination preparation materials	\$20

()

126. -- 200. (RESERVED)

201. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE OR PERMIT.

An applicant or licensee who has a conviction, finding of guilt, withheld judgment, or suspended sentence for any crime other than a minor traffic offense must submit with their application a written statement and any supplemental information establishing their current suitability for licensure. ()

01. Consideration of Factors and Evidence. The Board shall consider the factors set forth in Section 67-9411, Idaho Code. ()

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing his current suitability for licensure. ()

202. -- 299. (RESERVED)

300. EXAMINATIONS.

01. Examination Process. ()

a. Late applicants shall not be admitted to the examination room. ()

b. Picture identification shall be shown by all applicants before taking an examination. ()

c. Examinees are forbidden to receive any unauthorized assistance during the examination. Communication between examinees or possession of unauthorized material or devices during the examination is strictly prohibited. ()

d. Only scheduled examinees, Board members, and authorized personnel shall be admitted to the examination room. ()

02. Scope of Examination. ()

a. The complete examining procedure for certification as a certified shorthand reporter consists of two (2) sections. The first section is the written examination covering subjects as are ordinarily given in a school of court reporting and which are common to all fields of practice. The second section is the skills portion which shall consist of the following segments and speeds. ()

- i. Question and Answer -- Five (5) minutes at two hundred twenty-five (225) words per minute. ()
- ii. Jury Charge -- Five (5) minutes at two hundred (200) words per minute. ()
- iii. Literary -- Five (5) minutes at one hundred eighty (180) words per minute. ()
- iv. Density of Exam -- The syllabic content of the dictated exam shall be one point four (1.4). ()
- b. The examination is the same for all applicants. ()
- c. The examining committee, which shall consist of three Board members, shall inform applicants of the approximate time allowed for typing the skills portion of the examination. ()
- d. The written examination and the three (3) skills segments can be passed individually for the Idaho examination. ()
- 03. Grading.** ()
- a. Each applicant must attain a grade of seventy-five percent (75%) or above to pass the written examination and ninety-five percent (95%) or above in each segment to pass the skills portion. ()
- b. Every applicant receiving a grade of less than seventy-five percent (75%) in the written examination shall be deemed to have failed such examination and shall have the application denied without prejudice. ()
- c. Every applicant receiving a grade of less than ninety-five percent (95%) in each of the skills segments of the examination shall be deemed to have failed such examination and shall have the application denied without prejudice. ()
- d. An applicant failing either the written section, or the skills portion, and having filed a new application for examination, shall be required to take and pass within a two-year period only the section for which a failing grade was received. ()
- 04. Inspection of Examination.** ()
- a. An applicant who fails to obtain a passing grade in the skills portion may inspect his/her examination papers at such times and locations as may be designated by the Board. Inspection of such examination papers shall be permitted within a thirty (30) day period after receipt of notice by the applicant of his/her failure to pass the examination. ()
- b. At the time of inspection no one other than the examinee or his/her attorney and a representative of the Board shall have access to such examination papers. ()
- 05. Inspection Review.** ()
- a. Within thirty (30) days after the date notice of the results of the examination has been mailed to him/her, an applicant who was unsuccessful in the examination may petition the Board for a review of his/her examination papers. ()
- b. The petition for review shall be made in writing stating the reason for such review and citing the item or items against which the request is directed. ()
- c. The Board shall, upon receiving such petition for review, conduct a hearing at the next scheduled Board meeting. ()
- 06. Retention of Examinations.** The Board shall retain for at least six (6) months, all examination

papers and notes submitted by applicants. ()

301. -- 399. (RESERVED)

400. TEMPORARY PERMIT.

01. Eligibility. ()

a. Any one (1) or more of the following shall be considered as minimum evidence that the applicant is qualified to hold a temporary permit: ()

i. Hold a Certificate of Merit Reporter (RMR) issued by the National Court Reporters Association (NCRA); ()

ii. Hold a Certificate of Registered Professional Reporter (RPR) issued by the National Court Reporters Association (NCRA); ()

iii. Hold a Certified Shorthand Reporter certificate, or its equivalent, in good standing from another state; ()

iv. Hold a diploma or certificate of completion of all requirements to graduate from a National Court Reporter Association (NCRA) approved school; ()

v. Has otherwise demonstrated his/her proficiency by a certificate from an agency from another state. ()

b. The applicant must have a high school diploma or equivalent. ()

02. Permit. All temporary permits shall be issued for a period of one (1) year and may be renewable for a single additional year if, before the permit expires, the permit holder: ()

a. Submits a written renewal request to the Board; ()

b. Establishes that they have passed at least one (1) skills segment of the Idaho Certified Shorthand Reporter Examination, the Registered Professional Reporter Examination (RPR), or the Registered Merit Reporter Examination (RMR); and ()

c. Pays the required fees as set forth in this Chapter. ()

401. -- 499. (RESERVED)

500. DISCIPLINARY PENALTY.

Costs and fees. The Board may order anyone licensed under Title 54, Chapter 31, Idaho Code, who is found by the Board to be in violation of the provisions of Title 54, Chapter 31, Idaho Code, to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee. ()

501. -- 999. (RESERVED)

24.30.01 – IDAHO ACCOUNTANCY RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 54, Chapter 2, Idaho Code. ()

001. SCOPE.

These rules govern the administration of the certified public accountant examination, the issuance and renewal of licenses to practice as certified or licensed public accountants, the registration of firms, the regulation of individuals granted practice privileges, and the limitation of non-licensees. ()

002. INCORPORATION BY REFERENCE.

The following documents are hereby incorporated by reference into IDAPA 24.30.01 and can be obtained at the Board office. Licensees are required to comply with the following standards when applicable. ()

01. AICPA Standards. The AICPA Professional Standards as applicable under the circumstances and at the time of the services, except as superseded by Section 54-206(8), Idaho Code. ()

02. CPE Standards. 2019 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. ()

03. PCAOB Standards. The Standards issued by the Public Company Accountability Oversight Board, as applicable under the circumstances and at the time of the services. ()

003. DEFINITIONS.

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

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

02. Board. The Board or its designated representative. ()

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

04. CPA Examination. Uniform Certified Public Accountant Examination. ()

05. CPE. Continuing Professional Education. ()

06. Ethics CPE. Programs in ethics include topics such as ethical reasoning, state-specific statutes and rules, and standards of professional conduct, including those of other applicable regulatory bodies. ()

07. NASBA. The National Association of State Boards of Accountancy. ()

08. National Candidate Database. The National Association of State Boards of Accountancy database of all CPA Examination candidates. ()

09. State-Specific Ethics for Idaho. A minimum two-hour (2) CPE course on Idaho Accountancy Act and Rules. ()

10. Year of Review. The calendar year during which a peer review is conducted. ()

11. Year Under Review. The twelve-month (12) period that is reviewed. ()

004. -- 099. (RESERVED)

100. CPA EXAMINATION.

An applicant must pass the CPA Examination before applying for a CPA license. The CPA Examination is graded by the American Institute of Certified Public Accountants and subject to review and acceptance by the Board. ()

101. AUTHORIZATION TO TEST AND NOTIFICATION TO SCHEDULE.

The Board will forward notification of eligibility in the form of an Authorization to Test (ATT) to NASBA. The ATT is issued for the test section(s) for which the candidate applied. Candidates must pay the fees charged by the AICPA, NASBA, and the test delivery service provider directly to NASBA. The ATT will expire ninety (90) days after it is

issued if the candidate has not paid the appropriate fees. Eligible candidates will receive a Notice to Schedule (NTS) for the CPA Examination. The NTS is valid for six (6) months from the date issued. A candidate's ATT lasts as long as the NTS is valid, or until the candidate tests, whichever occurs first. ()

102. FAILURE TO APPEAR.

A candidate who fails to appear for the CPA Examination forfeits all fees paid. ()

103. CPA EXAM EDUCATIONAL QUALIFICATIONS.

A candidate for the CPA examination provides evidence of successful completion of a baccalaureate degree or its equivalent to include thirty (30) or more semester hours (or forty-five (45) or more quarter hours) in business administration subjects of which at least twenty (20) semester hours (or at least thirty (30) quarter hours) are in accounting subjects (excluding introductory level courses). ()

104. TESTING PERIOD AND CREDIT.

01. CPA Examination Credit. Candidates are to pass all four (4) test sections of the CPA Examination with a grade of seventy-five (75) or higher within an eighteen-month period which begins on the actual date of notification of a passing score result. Candidates who do not sit and ultimately receive a passing score on all four (4) sections of the CPA Examination within the eighteen-month period lose credit for any test section(s) passed outside the eighteen-month period and that test section(s) is to be retaken. ()

02. Extending the Term of Credit. The Board may extend the term of credit validity upon demonstration by the candidate that the credit was lost by reason of circumstances beyond the candidate's control. ()

03. Transfer of Credit. An applicant may submit the results of any test section of the CPA Examination taken by the applicant in any other state having standards at least equivalent to those of this state, and these results may be adopted by the Board in lieu of examination in this state on the same test section and in accordance with the provisions of Section 54-210, Idaho Code, and these rules. ()

105. CHEATING.

01. Actions. Cheating by an applicant in applying for the CPA Examination or by a candidate in taking the CPA Examination may cause any grade otherwise earned on any part of the CPA Examination to be invalidated and impact the applicants ability to retest for a specified period of time. ()

02. Notice. If a candidate is refused credit for any test section of an examination taken, disqualified from taking any test section, or barred from taking the examination in the future, the Board will provide information about findings and actions taken to the national candidate database and the board of any other state to which the candidate may apply for the examination. ()

106. SECURITY AND IRREGULARITIES.

Notwithstanding any other provisions under these rules, the Board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of security, unauthorized acquisition or disclosure of the contents of an examination, suspected or actual negligence, errors, omissions, or irregularities in conducting an examination, or for any other reasonable cause or unforeseen circumstance. ()

107. INITIAL CERTIFIED PUBLIC ACCOUNTANT LICENSURE.

Applications for initial licensure are to be made as prescribed in Section 54-207, Idaho Code, and are to comply with the following: ()

01. Education. ()

a. Applicants for licensure are to meet the provisions of Section 54-207(2), Idaho Code. An applicant for licensure who was accepted for the May 2000 CPA Examination or prior examination is exempt from additional educational requirements. ()

- b.** The Board will recognize: ()
 - i. Any college or university accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA), ()
 - ii. Accounting and business programs accredited by the Association to Advance Collegiate Schools of Business (AACSB) or;
 - iii. any other accrediting agency having equivalent standards. ()

c. An applicant is deemed to have met the education requirement if, as part of the one hundred fifty (150) semester hours of education, the applicant has met any one (1) of the following conditions: ()

- i. Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency approved by the Board; ()
- ii. Earned a graduate degree from a program that is accredited in business by an accrediting agency approved by the Board. Completion of at least twenty-four (24) semester hours in accounting (excluding introductory courses) at the undergraduate level or fifteen (15) semester hours at the graduate level, or an equivalent combination thereof, including coverage of, but not necessarily separate courses in, the subjects of data analytics, financial accounting, auditing, taxation, and management accounting; ()

iii. Earned a baccalaureate degree at an institution approved by the Board or from a program that is accredited in business by an accrediting agency approved by the Board. Completion of at least twenty-four (24) semester hours in business (other than accounting courses) and twenty-four (24) semester hours in accounting (excluding introductory courses) at the undergraduate or graduate level including coverage of, but not necessarily separate courses in, the subjects of data analytics, financial accounting, auditing, taxation, and management accounting. ()

02. Experience. ()

a. An applicant is to provide evidence of one (1) year of experience as prescribed in Section 54-209, Idaho Code, and these rules. Experience consists of full or part time employment that extends over a period of no less than twelve (12) months and no more than thirty-six (36) months with no fewer than two thousand (2,000) hours earned within the ten (10) year period immediately preceding the latest application for licensure. ()

b. An applicant completes and submits the Verification of Employment and Experience Evaluation form(s). An applicant may be called to appear before the Board to supplement or verify evidence of experience. ()

c. A licensee verifying experience will maintain supporting documentation of the applicant's experience until thirty (30) days after the applicant is granted a license. The licensee will permit the Board to inspect the supporting documentation prior to issuing a license to the applicant. Any licensee who has been requested by an applicant to submit to the Board evidence of the applicant's experience and has refused to do so will, upon request by the Board, explain in writing or in person the basis for such refusal. ()

d. A licensee who is responsible for supervising attest services, and signs or authorizes someone to sign the accountant's report on the financial statement on behalf of the firm, is to meet the experience requirement set out in the AICPA statements on quality control standards. ()

03. Examination on Code of Professional Conduct. Prior to licensure, applicants successfully complete a course in professional ethics that is acceptable to the Board. ()

108. ANNUAL LICENSE RENEWAL AND LATE FEE.

01. Renewal. Licenses expire on June 30 of each year. ()

02. Non-Renewal. Individuals choosing not to renew their license are to notify the Board, on the renewal form by the expiration date. Individuals with lapsed licenses may not publicly display their wall certificates, use the title CPA or LPA, or provide services that are reserved to licensees. ()

03. Late Fee. Licenses renewed after July 1, but before August 1, are subject to the late renewal fee as prescribed in Rule 600. After August 1, any license not renewed is deemed lapsed and is subject to reinstatement pursuant to Section 54-211, Idaho Code. ()

109. INTERNET DISCLOSURE.

A non-Idaho licensee entering into an engagement to provide professional services via a web site, pursuant to Idaho practice privileges, is to disclose on their web site: ()

01. Licensure and Address. Their principal state of licensure, license number, and address; and ()

02. Contact Method. A means for regulators and the public to contact a responsible licensee in charge at the firm regarding complaints, questions, or regulatory compliance. ()

110. RECIPROCAL LICENSURE.

If the practice privilege standard set out in Section 54-227, Idaho Code, is not applicable, the Board will issue a license to an applicant provided that the applicant pays the application and licensure fees prescribed in Rule 600 and meets one of the following: ()

01. Interstate Reciprocity. The requirements for a reciprocal license under Section 54-210(2), Idaho Code. Notwithstanding anything to the contrary, an individual whose principal place of business is not in this state and who holds a valid license or permit with unrestricted practice privileges as a Certified Public Accountant from any state that the NASBA National Qualification Appraisal Service has verified to be in substantial equivalence with the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act is presumed to have the qualifications substantially equivalent to this state's requirements. ()

02. International Reciprocity. The requirements for foreign reciprocal licensure under Section 54-210(5), Idaho Code, provided that the Board relies on the International Qualifications Appraisal Board for evaluation of foreign credential equivalency. Such licensees are to report any investigations undertaken, or sanctions imposed, by a foreign credentialing body against the licensee's foreign credential. The Board will participate in joint investigations with foreign credentialing bodies and rely on evidence supplied by such bodies in disciplinary hearings. ()

111. CPE BASIC REQUIREMENTS.

Demonstrate participation in a program of learning that meets the requirements as set forth in the Statement of Standards as referenced in Rule 004. CPE courses approved on NASBA's National Registry of CPE Sponsors, the AICPA, and state societies are deemed to meet the CPE requirements of this state. Responsibility for documenting the acceptability of the program and the validity of the credits rests with the licensee. ()

01. Renewal. Licensees seeking active license renewal are to demonstrate that during the two (2) calendar years immediately preceding the date the reporting form is due that no less than eighty (80) hours of CPE are recorded, of which at least four (4) hours are ethics with a minimum of thirty (30) hours in any one (1) calendar year, and a maximum of fifty (50) hours recorded in any one (1) calendar year. ()

02. New and Reciprocal. Completion of at least a two-hour (2) course on Idaho state-specific ethics during the calendar year that the license is issued. During the second calendar year of licensure, a minimum of thirty (30) hours is to be completed which may include an ethics component based on the prior year submission. ()

112. CPE REPORTING, CONTROLS, AND LATE FEES.

01. Reporting. No later than January 31 of each year, individuals renewing their licenses are to provide a signed reporting form either: ()

a. Disclosing the information pertaining to the educational programs submitted for qualification as prescribed in the CPE Standards; or ()

b. Applying for exception, extension, or exemption. ()

02. CPE Reciprocity. If an applicant for renewal who is licensed to engage in the practice of public accounting in another state and resides in that state, the applicant must demonstrate compliance with the continuing education requirements of that state by attesting to that effect on an application to the Board for licensure renewal. If the state in which the applicant resides does not have continuing education requirements, the applicant must comply with the requirements set forth in this section. ()

03. CPE Late Fees. A License will not be issued until the licensee files the reporting form with supporting documentation, pays the late filing as prescribed in Rule 600, license renewal fee and any other penalty the Board may impose. ()

113. CPE EXCEPTIONS, EXTENSIONS, AND EXEMPTIONS.

01. Exceptions and Extensions. The Board may make exceptions to the CPE requirements, or grant extensions of time for completion of the CPE requirements, where reasons of health as certified by a medical doctor prevent compliance by the licensee, or other good cause exists. ()

a. Licensees asking for exceptions or extensions under these conditions apply on the reporting form for the year in which the extension or exemption is sought, and within the time period set for CPE reporting, stating the reasons for asking for such exception or extension. Any request not filed timely is subject to the late fee prescribed in Rule 600, in addition to any administrative action. ()

b. A penalty of no more than fifty percent (50%) of the hours a licensee is short in meeting the calendar year CPE requirement may be assessed for extensions. In such cases, the licensee will be required to complete the CPE hours and any assessed penalty no later than April 30. The penalty for non-compliance with ethics CPE is to obtain the mandatory hours of ethics CPE plus fifty percent (50%) penalty hours in ethics CPE prior to April 30. The penalty for non-compliance with state-specific ethics for Idaho is to complete the course plus fifty percent (50%) penalty hours in ethics CPE prior to April 30. ()

02. Inactive or Retired. Licensees who elect inactive or retired status are exempt from any CPE requirements as prescribed by Sections 54-211(c) and (d), Idaho Code. A licensee who has elected inactive or retired status may provide the following volunteer, uncompensated services: tax preparation services, participating in a government-sponsored business mentoring program, serving on the board of directors for a nonprofit or governmental organization, or serving on a government-appointed advisory board. If the CPA provides the foregoing volunteer, uncompensated services, the CPA has a duty to ensure that they hold the professional competencies necessary to offer these services. ()

114. REVIEW AND AUDIT OF CPE REPORTS.

All signed CPE reports are subject to formal verification to determine qualification and sufficiency of hours reported. A formal audit of CPE reported may be performed to determine whether hours reported qualify for credit. If a reporting form is not approved, the licensee will be notified. ()

115. NOTIFICATION.

A licensee is served a notice of noncompliance when it is determined the CPE requirement has not been fulfilled. The notice advises and provides opportunity for the deficiencies to be addressed. If the deficiencies remain, administrative action may be taken. ()

116. ACTION.

Following notice and hearing, the Board may suspend the license or take other action pursuant to Section 54-219, Idaho Code. ()

117. REINSTATEMENT AND RE-ENTRY.

An individual whose license has lapsed or is in a non-active status per Section 54-211, Idaho Code, is to complete no

less than eighty (80) hours of CPE, of which at least four (4) hours are in ethics CPE with a minimum of two (2) hours to be in state specific ethics for Idaho, during the twelve (12) months immediately prior to applying for reinstatement or re-entry to an active license. Completion of the CPE will otherwise exempt the licensee from obtaining CPE hours during the calendar year of returning to an active license. If a licensee applies for re-entry during a license period and has already paid the fee for an inactive or retired license, the licensee is to pay the difference between the cost of an inactive or retired license and the annual license renewal fee. An individual who is applying for reinstatement to an inactive or retired license is not required to meet a CPE requirement. ()

118. -- 199. (RESERVED)

200. COMMISSIONS AND CONTINGENT FEES.

01. Acceptance. Licensees may accept commissions or contingent fees subject to Section 54-218, Idaho Code, the AICPA Code of Professional Conduct, and these rules. ()

02. Disclosures. Any licensee who directly or indirectly accepts or agrees to accept such form of compensation is to disclose the terms of such compensation to the client. The disclosure is to be: ()

a. In writing, clear, and conspicuous; and state the amount of the compensation or basis on which it will be computed; ()

b. Made at or prior to the time of the recommendation or referral of the product or service for which the commission is paid, prior to the client retaining the licensee to whom the client has been referred for which a referral fee is paid, and prior to the time the licensee undertakes representation of or performance of the service upon which a contingent fee will be charged. ()

201. CONFIDENTIAL CLIENT INFORMATION.

01. Confidentiality. A licensee is to protect and not disclose confidential client information obtained in the course of performing professional services, unless the licensee has obtained the specific consent of the client, or of such client's heirs, successors or personal representatives, or others legally authorized to give such consent on behalf of the client. ()

02. Exemptions. Nothing in these rules is construed as prohibiting the disclosure of information that is required to be disclosed: ()

a. In reporting on the examination of financial statements; ()

b. In investigations by the Board or other accounting regulatory agency; ()

c. In ethical investigations conducted in private professional organizations; ()

d. In the course of peer reviews; ()

e. To other persons active in the organization performing services for that client on a need to know basis; ()

f. To persons in the entity who need this information for the sole purpose of assuring quality control; or ()

g. By any act of law. ()

03. Disciplinary Proceedings. Members of the Board and investigative officers may not disclose any confidential client information that comes to their attention from licensees in disciplinary proceedings or otherwise, except that they may furnish such information to an investigative or disciplinary body. ()

202. RECORDS.

A licensee is to furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question all client records, as that term is defined in the AICPA Code of Professional Conduct belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents when they form the basis for work performed by him. Client records are to be returned upon request by the client, whether the engagement has been terminated or the licensee has been paid for services rendered. ()

01. Tax Return, Other Reports, Working Papers Including Audit Documentation Made Part of Client's Records. A licensee who has been paid for the services rendered is to furnish to his client or former client, upon request, within a reasonable time after original issuance of the document in question the following records: ()

a. A copy of a tax return of a client. ()

b. A copy of any report, or other document, issued by the licensee to or for the client; and ()

c. A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's books and records and are not otherwise available to the client. This would include adjusting, closing, combining, or consolidating journal entries; information normally contained in books of original entry and general ledgers or subsidiary ledgers; and tax and depreciation carry forward information. The information should be provided in the medium in which it is requested, provided it exists in that medium. The licensee does not have to convert information that is not in electronic format to an electronic format. ()

02. Working Papers Including Audit Documentation Not a Part of the Client's Records. A licensee's working papers that do not become part of a client's records, which may include analyses and schedules prepared by the client at the request of the licensee, are the licensee's property, not client records, and need not be made available under any circumstances. ()

03. Charges. A licensee does not have to furnish records to a client or a former client more than once. A licensee may charge the client or former client actual costs for time and photocopying charges on subsequent requests. ()

203. FIRM NAMES.

01. General. A licensee may only provide professional services under a firm name that is not misleading as to the description of the legal form of the firm, or as to the person or persons who are owner(s), partners, officers, shareholders or members of the firm. Names of one (1) or more past owners, partners, shareholders or members who were licensed may be included in the firm name. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole practitioner. ()

02. Title. A firm may designate itself as "Certified Public Accountant(s)," "Licensed Public Accountant(s)" or "Public Accountant(s)" when a majority of its partners, shareholders, or members are actively licensed certified public accountants or licensed public accountants under the provisions of the Idaho Accountancy Act and Rules. The firm name may not include the name of a non-licensee owner, except as allowed in Subsection 203.01 if the title "CPA(s)" or "LPA(s)" is included in the firm name. The firm name may not include the name of a person who is not a CPA or LPA if the title "Public Accountant(s)" is included in the firm name. ()

204. RESPONSE TO THE BOARD.

Unless otherwise specified, a licensee is to respond within thirty (30) calendar days of the mailing to any communication in which the Board requests a response. ()

205. PURPOSE OF FIRM REGISTRATION AND PEER REVIEW.

The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies. The program emphasizes appropriate education programs or remedial procedures that may be recommended or required where the firm does not comply with appropriate professional standards. In the event a firm is unwilling or unable to comply with professional standards, or a firm's failure to

comply with professional standards is so egregious as to warrant continuing action, the Board will take appropriate action to protect the public interest as authorized by Section 54-219, Idaho Code. ()

206. ISSUANCE OF REPORTS AND FORM OF PRACTICE.

A licensee can provide or offer to provide attest services or issue reports on compilations only in a firm as defined by Section 54-206(10), Idaho Code, except as provided under Section 54-221(4), Idaho Code. ()

207. PEER REVIEW PROGRAM PARTICIPATION.

01. Participation. Any firm that issues reports on accounting and auditing engagements, including audits, reviews, compilations, prospective financial information, engagements performed in accordance with the PCAOB, and any examination, review or agreed-upon procedures engagement performed in accordance with the statement on standards for attestation engagements. A licensee who issues compilation reports through any form of business other than a firm is to participate in the peer review program. Such licensees are to meet the requirements for registration and peer review. ()

02. Practice Privileges. Individuals with practice privileges in Idaho are to comply with the peer review requirements in the state of their principal place of business. ()

208. EXEMPTION FROM PARTICIPATION.

01. Firms. A firm that does not perform any of the services in Rule 502 is exempt from peer review. The firm is to notify the Board of such exemption in writing at the time of renewal of its registration. A firm that begins providing these services is to commence a peer review within eighteen (18) months of the date of the issuance of its initial report. ()

02. Licensees Not in Public Practice. A licensee who does not perform any of the services in Rule 502 is exempt from firm registration and peer review. The licensee is to notify the Board of such exemption in writing at the time of initial CPA licensure and annually thereafter at the time of CPA or LPA license renewal. ()

03. Licensees Not Issuing Reports. A licensee who issues financial statements pursuant to Section 54-221(5), Idaho Code, is exempt from peer review. ()

209. SCHEDULING OF THE PEER REVIEW.

01. Frequency. A firm performing any of the services in Rule 502 undergoes, at its own expense, a peer review commensurate in scope with its practice, not less than once in each three (3) years. ()

02. Currently Enrolled. A firm currently enrolled in a program of an approved administering organization will use the year of review assigned by the administering organization. The firm will notify the Board of the deadlines set by the administering organization. ()

03. Review Year. Each firm is to enroll with one (1) of the approved administering organizations. Each firm adopts the review date assigned by the appropriate administering organization and notifies the Board of such date. ()

04. New Firms. Within one (1) year of registration with the Board, new firms are to enroll with an approved administering organization. The firm adopts the review date assigned and notifies the Board of such date. ()

05. Mergers or Combinations. In the event that two (2) or more firms are merged or combined, the resulting firm retains the peer review year of the firm with the largest number of accounting and auditing hours. ()

06. Dissolutions or Separations. In the event that a firm is divided, the new firm(s) retains the review year of the former firm. In the event that the year under review is less than twelve (12) months, a review year will be assigned so that the review occurs within eighteen (18) months of the commencement of the new firm(s). ()

07. Multi-State Practices. With respect to a multi-state firm, the Peer Review Oversight Committee may accept a peer review based solely upon work conducted outside of this state if the peer review is performed in accordance with requirements equivalent to those of this state. ()

08. Report Issuance. It is the responsibility of the firm to anticipate its need for peer review services in sufficient time to enable the reviewer to issue the report within six (6) months after the review date. ()

09. Extensions. The Board may accept an extension recommended by the administering organization for the conduct of a review, provided the Board is notified by the firm within thirty (30) days of the date of receipt of recommendation for such an extension. ()

10. Just Cause. The Board may change a firm’s peer review year for just cause. ()

210. MINIMUM STANDARDS.

The minimum standards for peer review are contained in the Standards for Performing and Reporting on Peer Reviews section of the AICPA Standards. Peer reviews intended to meet the requirements of the AICPA peer review program are to be carried out in conformity with these standards under the supervision of an administering organization approved by the Board to administer peer reviews. Reviewed firms arrange and schedule their reviews in compliance with the procedures established by the administering organization and cooperate with the administering organization and with the Board in all matters related to the review. ()

211. REPORTING TO THE BOARD.

01. Firm Registration Form. All firms performing any of the peer reviewable services in Rule 502 annually file a firm registration no later than September 30. The registration is on a form prescribed by the Board. Firm registrations filed after September 30 are subject to penalty for non-compliance pursuant to Rule 600. ()

02. Peer Review Documentation. A firm that has undergone peer review will file a copy of the peer review report, letter of comments if any, letter of response if any, and letter accepting the review report issued by the administering organization. The letter will be filed within thirty (30) days after receipt. Additionally, firms are to notify the Board within thirty (30) days of the date the peer reviewer or a team captain advises the firm that a grade of fail will be recommended. The Board reserves the right to obtain all other information relating to the peer review. The Board also has the authority to exempt for good cause firms who would otherwise have to file peer review documentation. ()

212. RETENTION OF DOCUMENTS RELATING TO PEER REVIEWS.

Documents relating to peer reviews are to be retained as follows: ()

01. Documents. All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the Board. These documents may include the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm’s concurrence or non-concurrence, and any proposed remedial actions and related implementation. ()

02. Retention Period. Document retention is for a period of time corresponding to the designated retention period of the relevant administering organization and, upon request of the Committee, to be made available to it. In no event may the retention period be less than ninety (90) days from the date of acceptance of the review by the administering organization. ()

213. CONFIDENTIALITY.

The letter and any documentation submitted to the Board pursuant to Rule 506.02 is confidential as authorized by Title 74, Chapter 1, Idaho Code, unless an Order is issued by the Board pursuant to Section 54-219, Idaho Code. ()

214. REMEDIES FOR FAILURE TO COMPLY.

01. Corrective Actions. The Board will take appropriate action to protect the public interest if the

Board determines, through the peer review process or otherwise, that a firm’s performance or reporting practices, or both, are not, or may not be, in accordance with applicable professional standards, or that the firm does not comply with peer review program requirements or with all or some of the reporting, remedial action, or fee penalty requirements of this section. The Board’s actions may include, but are not limited to: ()

a. The annual license of the principal(s) of a non-compliant firm will not be issued until the firm complies with all requirements of these rules, provided the licensee has met all licensing requirements; ()

b. Requiring the firm to develop quality control procedures to provide a reasonable assurance that similar occurrences will not occur in the future; ()

c. Requiring any individual licensee who had responsibility for, or who substantially participated in, the engagement(s) to successfully complete specific courses or types of continuing education as specified by the Board; ()

d. Requiring the reviewed firm to engage a Board-approved licensee to conduct a Board-prescribed on-site field review of the firm’s work product and practices or perform other investigative procedures to assess the degree or pervasiveness of nonconforming work product. The Board-approved licensee engaged by the firm will submit a report of the findings to the Board within thirty (30) days of the completion of the services. The cost of the Board-prescribed on-site review or other Board-prescribed procedures will be at the firm’s expense; ()

e. Requiring the reviewed firm responsible for engagement(s) to submit all or specified categories of its compilation or attest working papers and reports to a preissuance evaluation performed by a Board-approved licensee in a manner and for a duration prescribed by the Board. Prior to the firm issuing the reports on the engagements reviewed, the Board-approved licensee submits to a designee of the Board for the purpose of recommending that the Board accept a report of the findings, including the nature and frequency of recommended actions for the firm. The cost of the Board-approved preissuance evaluation will be at the firm’s expense; ()

f. Initiating an investigation to determine if additional discipline pursuant to Section 54-219, Idaho Code, is warranted. Notwithstanding the foregoing, absent an investigation the specific rating of a single peer review report is not a sufficient basis to warrant disciplinary action. ()

02. Solicitation and Review of Other Sources. The Board may solicit, and review licensee reports and other information covered by the reports from clients, public agencies, banks, and other users of such information. ()

215. ADMINISTERING ORGANIZATIONS.

Qualified administering organizations which are approved by the Board based on their adherence to the AICPA Peer Review minimum standards, include the peer review program of the American Institute of Certified Public Accountants (AICPA) and state CPA societies fully involved in the administration of the AICPA Peer Review Program and their successor organizations that meet the minimum standards. ()

216. -- 399. (RESERVED)

400. FEES.

01. Examination and License.

Exam/License	Initial Fee
Initial Exam	\$100
Re-Exam	\$50
Active License	\$120
Inactive or Retired License	\$100
Reciprocity	\$175 + license fee

Exam/License	Initial Fee
International Reciprocity	\$175 + license fee
Transfer of Grades	\$175 + license fee
Reinstatement License	Sum of unpaid license fees for the preceding 3 license renewal cycles
Re-entry License	\$20
Firm Registration	\$20 firm plus \$5 per licensee up to \$200 maximum

()

02. Administrative Services.

Category	Fee
Interstate Exchange of Information	\$10
Wall Certificate	\$20

()

03. Late Fees.

Category	Fee
Late License Renewal	\$100
Non-compliance with CPE Filing:	
February	\$100
March	\$150
April	\$200
May	\$250
June	\$300
Non-compliance with Firm Registration	\$100 per licensee

()

401. -- 999. (RESERVED)

**24.32.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS**

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 54-1208(1), 55-1702(1), and 55-1606, Idaho Code. ()

001. SCOPE.

These rules include procedures of the Board, rules of professional responsibility, rules of continuing professional development, rules for coordinate system of land description, and rules for properly completing corner perpetuation and filing forms. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The following terms are used as defined below: ()

01. Certificate Holder. Any person holding a current certificate as an Engineer Intern or a Land Surveyor Intern or a business entity (which is also herein referred to as a “person”) holding a current certificate of authorization, which has been duly issued by the Board. ()

02. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. ()

03. Incompetence. Failure to meet the standard of care. ()

04. Licensee. Any person holding a current license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board. ()

05. Misconduct. A violation or attempt to violate these rules or statutes applicable to the practice of engineering or surveying, or to knowingly assist or induce another to do so, or do so through the acts of another; a finding of guilt of commitment of a felony or a plea of guilty to a felony; commit fraud or deceit; failure to respond within twenty (20) days of an inquiry from the Board or its representative, unless such time is extended by the Board for justifiable cause; state or imply an ability to influence improperly a government agency or official. ()

**SUBCHAPTER A – RULES OF PROCEDURE
(Rules 011 through 099)**

011. FEES.

01. Applications and Renewals. All fees are set by the Board in the following categories and may in no event be more than the amount specified in Sections 54-1213, 54-1214, 54-1216, 54-1219 and 54-1223, Idaho Code. Fees are not refundable. ()

a. Licensure as a professional engineer or professional land surveyor by examination. ()

b. Reinstatement of a retired or expired license. ()

c. Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying. ()

d. Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities. ()

e. Licensure for professional engineers or professional land surveyors by comity. ()

012. SEALS.

01. Official Seal of Board. The official seal of this Board consists of the seal of the state of Idaho, surrounded with the words “Board of Professional Engineers and Professional Land Surveyors” and “State of Idaho.” ()

02. Standard Seals for Engineers and Land Surveyors. The Board adopts standard seals for use by

licensed professional engineers and professional land surveyors as prescribed by Section 54-1215, Idaho Code. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ()

03. Seal for Professional Engineer/Land Surveyor. Engineers obtaining licensure as land surveyors under the changes to Section 54-1217, Idaho Code, by the 1978 Legislature use the seal showing licensure as a Professional Engineer and Land Surveyor as adopted by the Board. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ()

013 – 015. (RESERVED)

016. APPLICATION FOR LICENSURE OR CERTIFICATION.

01. Completion of Application. Applications must be made in English. An application that is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice engineering or land surveying must set forth its address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. ()

02. Submittal of Applications and Examination Cutoff Date. Submittal of applications for licensure or intern certification must occur after passing the required national examinations. Examinations may be given in various formats and different registration dates apply depending on the examination format. ()

a. For national examinations administered in a computer-based or paper format once or twice per year the registration requirements, including the deadline and testing windows, are established by the National Council of Examiners for Engineering and Surveying (NCEES). ()

b. For national examinations administered continuously in a computer-based format, there is no deadline for registering with NCEES. The registration requirements, including the testing windows, are established by NCEES. ()

c. In order for the Board to be able to verify experience, only experience up to the date of submittal of the application for licensure will be considered as valid. ()

d. Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering or the Fundamentals of Surveying examination and providing evidence of graduation with educational credentials required by Subsection 017.03 of this chapter. ()

03. Residency Requirement. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for initial licensure. ()

04. Minimum Boundary Survey Experience. The Board requires a minimum of two (2) years boundary survey experience as a condition of professional land surveyor licensure. ()

017. EXAMINATIONS AND EDUCATION.

01. Use of NCEES Examinations. National examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) may be used by the Board. Applicants registering for a national professional examination must have first passed the fundamentals examination unless exempted per Subsection 017.10 of this chapter. ()

02. Eligibility for Licensure, Educational Requirements. The application for licensure as a professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire or Idaho specific land surveying examination, is considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being licensed. Prescriptive education requirements are as follows: ()

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor of science programs accredited by the Canadian Engineering Accrediting Board, or those bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. ()

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for licensure as a professional engineer: ()

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. ()

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ()

iii. Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ()

iv. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to ensure that the above requirements are met. ()

c. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a

related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ()

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; ()

ii. Twelve (12) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; ()

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. ()

d. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation must be done through an organization approved by the Board and be done at the expense of the applicant to ensure that the applicant has completed the coursework requirements of Subsection 017.03.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee is forfeited. ()

03. Two Examinations for Engineering Licensure. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination will be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by the Board. ()

04. Fundamentals of Engineering. The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants' education. ()

05. Principles and Practice of Engineering -- Disciplines. The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the

requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of, or utilize other state examinations in disciplines other than those for which examinations may be available from NCEES. ()

06. Three Examinations for Land Surveying Licensure. The complete examining procedure for licensure as a professional land surveyor consists of three (3) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying, and the third is the Idaho specific professional land surveying examination. All examinations are required for professional land surveyor licensure. The examination will be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by the Board. The examination covers the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. Having passed the Principles and Practice of Surveying examination, applicants will be required to pass the Idaho specific professional land surveying examination, which tests for knowledge of the laws and rules of Idaho, and the legal and technical aspects of land surveying in Idaho. ()

07. Oral or Unassembled Examinations. An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. ()

08. Grading. Unless otherwise provided in 54-1219, or 54-1223 Idaho Code, each land surveyor intern, engineer intern, professional land surveyor and professional engineer applicant must attain a passing score on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Passing scores on national examinations are established by the National Council of Examiners for Engineering and Surveying. A passing score on the Idaho specific ethics questionnaire is eighty (80), a passing score on the law and rules module of the Idaho specific land surveying examination is ninety (90), and a passing score on the public land surveying module of the Idaho specific land surveying examination is seventy-five (75). ()

09. Exemption – Examination on the Fundamentals of Engineering. The Board may exempt an exceptional individual who has twelve (12) or more years of appropriate engineering experience from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(2), Idaho Code. The Board will exempt an individual who has an earned bachelor's degree and an earned doctoral degree from an approved engineering program from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(3), Idaho Code. ()

10. Review of Examination by Examinee. Due to security concerns about the examinations, examinees are not allowed to review their examinations. Examinees who fail an examination will be provided a diagnostic analysis of their performance on the examination if such an analysis is available to the Board. ()

018. REEXAMINATIONS.

The reexamination policy for each failed national examination will be established by NCEES. Reexamination for failed Idaho specific examinations will be allowed until a passing score is attained, but the Board may, in addition, require oral or other examinations. ()

019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES, BOARDS, AND COUNTRIES.

01. Interstate Licensure Evaluation. Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, possessions or territories or the District of Columbia, will be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law related to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation with a bachelor of science degree is required for licensure. Individuals who have passed the National Council of Examiners for Engineering and Surveying (NCEES) examinations for professional engineering or professional land surveying will be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor provided

that land surveyor applicants also pass the Idaho specific professional land surveying examination. Prescriptive education requirements are as follows: ()

a. Graduates from programs accredited by the Engineering Accreditation Commission of the ABET, Inc., (EAC/ABET), or graduates of university bachelor of science engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, or graduates of engineering programs with coursework evaluated by the Board as being substantially equivalent to EAC/ABET degrees, will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ()

b. The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited four (4) year bachelor degree. Such evaluation must be done through an organization approved by the Board and is done at the expense of the applicant to ensure that they have completed the coursework requirements of Subsection 019.01.c. Such evaluation is not required if the applicant has been licensed in another jurisdiction of the United States for a minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee will be forfeited. ()

c. An applicant who was originally licensed in another jurisdiction after June 30, 1996, and who has completed a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: ()

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. ()

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ()

iii. Forty-eight (48) college credit hours of engineering science and engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular

requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ()

d. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ()

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; ()

ii. Twelve (12) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; ()

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. ()

02. International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process. The Board may determine the professional engineering licensure process in other countries or jurisdictions within other countries is substantially equivalent to that required 54-1219 Idaho Code. As such, the Board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer license credential, attains a minimum of eight (8) years of experience after licensure, provided the applicant has no criminal or outstanding disciplinary action in any country or jurisdiction, and is in good standing with the licensing Board within that country or jurisdiction. A bona fide licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability take disciplinary action and the willingness, availability, and capacity of a foreign Board to release information to the Idaho Board in English. ()

03. International Engineering Licensure Evaluation - Countries or Jurisdictions Without a Board Approved Licensure Process. Each application for an Idaho professional engineer license submitted by an applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions within a country, will be considered by the Board on its merits, and the application evaluated for substantial compliance with the requirements of Idaho law with respect to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation is required for licensure. The Board will require two (2) years of experience working in the United States or two (2) years of experience working on projects requiring the knowledge and use of codes and standards similar to those utilized in the United States where the experience is validated by a professional engineer licensed in the United States. The Board may postpone acting on or deny an application for a

license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any country or jurisdiction. Applicants must have passed a professional engineering examination administered by NCEES. Applicants who meet the residency requirements of 54-1212, Idaho Code, are eligible for initial licensure in Idaho when qualified by the Board. Prescriptive education requirements are as follows: ()

a. Graduates of engineering university programs accredited by the Canadian Engineering Accrediting Board, or official organizations recognized by the U.K. Engineering Council, or graduates of engineering university programs accredited by EAC/ABET or evaluated by the Board as being substantially equivalent to EAC/ABET programs will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ()

b. The Board may require an independent credentials evaluation of the engineering education of an applicant educated outside the United States who has a non-EAC/ABET accredited engineering degree. Such evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. ()

c. The Board may require an independent credentials evaluation of the education for an applicant who has completed a four (4) year bachelor degree program outside the United States in engineering technology, or in a related science degree program other than engineering and must demonstrate completion of the requirements of Subsection 019.01.c. before the Board will consider the applicant to possess the knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. Such evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. ()

04. Waiver of Prescriptive Engineering Licensure Evaluation for Unique International Expertise. The Board may waive the prescriptive licensure evaluation requirements of 019.03 for international applicants who, in the Board's opinion, are qualified by reason of education and experience and offer unique technical expertise, provided the licensee meets the requirements of 54-1219 Idaho Code. ()

05. Denials or Special Examinations. An application from a licensee of another state, possession or territory, District of Columbia, or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. ()

06. Business Entity Requirements. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying, or both, in one (1) or more states, possessions or territories, District of Columbia, or foreign countries are considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. ()

020. DISCONTINUED, RETIRED, AND EXPIRED LICENSES AND CERTIFICATES.

01. Reinstatement – Disciplinary. Licensees who choose to convert their license to retired status as part of a disciplinary action, or in lieu of discipline, or in lieu of compliance with continuing professional development requirements, may be reinstated upon written request. The Board will consider the reinstatement request at a hearing or may waive the hearing for minor violations. ()

02. Reinstatement – Nondisciplinary. Licensees who chose to convert their license to retired status not as part of a disciplinary action may request reinstatement in writing. Reinstatement may require a hearing by the Board. ()

03. Continuing Professional Development. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in these rules as a condition of reinstatement. ()

04. Eligibility. Unless otherwise approved by the Board, only unexpired licensees are eligible to convert to retired status. ()

05. Discontinued Certificate of Authorization. Business entities no longer providing engineering or land surveying services in Idaho may request their certificates be discontinued. Reinstatement of a discontinued certificate may be requested by submitting a new application with the Board. ()

06. Fee for Reinstatement of Discontinued Certificate of Authorization. The fee for reinstatement of a discontinued certificate will be as required for applications in Section 54-1213, Idaho Code. ()

021 – 022. (RESERVED)

023. PROFESSIONAL ENGINEER LICENSURE FOR FACULTY APPLICANTS.

Written examinations related to applicable laws and rules for engineering licensure based upon criteria established by the Board must be offered to Idaho college or university faculty applicants whose credentials have been approved by the Board and who possess an earned doctorate degree. The credentials the Board considers in this regard should include the applicant's university course work completed, the applicant's thesis and dissertation work, the applicant's peer reviewed publications, and the nature of the applicant's professional experience. A satisfactory application, along with a passing score on the examination exempts the applicant from the written technical examinations, and may qualify the applicant for a restricted license as a professional engineer. The restricted license applies only to college or university related teaching upper division design subjects. All conditions for maintaining licensure, such as compliance with the laws and rules of the Board, fees and continuing professional development are the same as required for all licensees. The restricted license is effective from the date of issuance until such time as the licensee ceases to be a faculty member of an Idaho college or university, unless not renewed, retired, suspended or revoked and is subject to renewal requirements established in 54-1216, Idaho Code. Teaching and teaching work products are exempt from the requirements of sealing and signing engineering work under 54-1215(c), Idaho Code. Restricted licensees are not required to obtain a seal. ()

024. -- 099. (RESERVED)

SUBCHAPTER B – RULES OF PROFESSIONAL RESPONSIBILITY
(Rules 100 through 199)

100. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Licensees and Certificate Holders must at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. ()

02. Standard of Care. Each Licensee and Certificate Holder must exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. ()

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder must inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. ()

04. Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer must make a reasonable effort to inform the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication must reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy must respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer must notify the Licensee or Certificate Holder in writing, who has another twenty (20) days to respond. Failure to respond

(with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy is considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer must notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. A Licensee or Certificate Holder is exempt from this requirement if their client is an attorney and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure apply. ()

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees must comply with the continuing professional development requirements contained in these rules. ()

06. Obligation to Affected Landowners. Land surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227, Idaho Code. Per Subsection 100.04 above, land surveyors also have a duty to notify other licensees of a material discrepancy prior to setting monuments that represent a material discrepancy with a prior survey. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. ()

101. COMPETENCY FOR ASSIGNMENTS.

01. Assignments in Field of Competence. A Licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Licensee is qualified. All other phases of such project must be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the Licensee's competence, a Licensee may sign and seal the cover sheet for the total project only when the Licensee has first determined that all elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services. ()

02. Aiding and Abetting an Unlicensed Person. A Licensee or Certificate Holder must avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying. ()

03. Use of Seal on Documents. A Licensee must affix his signature and seal only to plans or documents prepared under his responsible charge. ()

102. (RESERVED)

103. CONFLICT OF INTEREST.

01. Conflict of Interest to Be Avoided. Each Licensee or Certificate Holder must conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, must forthwith disclose the circumstances in writing to the employer or client. In addition, the Licensee or Certificate Holder must promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Licensee's or Certificate Holder's judgment or quality of service, or jeopardize the clients' interests. ()

02. Compensations From Multiple Parties on the Same Project. A Licensee or Certificate Holder may accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. ()

03. Solicitation From Material or Equipment Suppliers. A Licensee or Certificate Holder may not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 103.02. ()

04. Gratuities. A Licensee or Certificate Holder may not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties

dealing with a client or employer in connection with work for which the Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither may a Licensee or Certificate Holder make any such improper offer. ()

05. Solicitation From Agencies. A Licensee, a Certificate Holder or a representative thereof may not solicit or accept a contract from a governmental authority on which an existing officer, director, employee, member, partner, or sole proprietor of his organization serves as a member of the elected or appointed policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract or recommend a contract for the services of a Licensee or a Certificate Holder. ()

06. Professional Services Decisions of Agencies. A Licensee, Certificate Holder or representative thereof serving as a member of the governing body of a governmental authority, whether elected or appointed, or an advisor or consultant to a governmental Board, commission or department may at all times be subject to the statutory provisions concerning ethics in government, Section 74-401, Idaho Code, et seq. A violation of the "Ethics in Government Act of 2015" will be considered a violation of these rules. ()

07. Unfair Advantage of Position and Work Outside Regular Employment. When a Licensee or an individual Certificate Holder is employed in a full time position, the person may not use the advantages of the position to compete unfairly with other professionals and may not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. ()

104. SOLICITATION OF WORK.

01. Commissions. A Licensee or Certificate Holder may not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Licensee or Certificate Holder for the purpose of securing business or employment. ()

02. Representation of Qualifications. A Licensee or Certificate Holder may not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and may not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment may not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Licensee or Certificate Holder may not indulge in publicity that is misleading. ()

03. Assignment on Which Others Are Employed. A Licensee or Certificate Holder may not knowingly seek or accept employment for professional services for an assignment that another Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. ()

04. Contingency Fee Contracts. A Licensee or Certificate Holder may not accept an agreement, contract, or commission for professional services on a "contingency basis" that may compromise his professional judgment and may not accept an agreement, contract or commission for professional services that includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment. ()

05. Selection on the Basis of Qualifications. On selections for professional engineering and land surveying services that are required pursuant to Section 67-2320, Idaho Code, a licensee or certificate holder, in response to solicitations described in Section 67-2320, Idaho Code, may not submit information that constitutes a bid for services requested either as a consultant or subconsultant. ()

105. IMPROPER CONDUCT.

01. Fraudulent or Dishonest Enterprises. A Licensee or Certificate Holder may not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm that it is

known to be, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. ()

02. Confidentiality. Licensees or Certificate Holders may not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. ()

03. Actions by Other Jurisdictions. The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, is sufficient cause after a hearing for disciplinary action as provided in Title 54 Chapter 12, Idaho Code. ()

106. -- 199. (RESERVED)

SUBCHAPTER C – RULES OF CONTINUING PROFESSIONAL DEVELOPMENT
(Rules 200 through 299)

200. REQUIREMENTS.

The purpose of the continuing professional development requirement is to demonstrate a continuing level of competency of licensees. Every licensee shall meet fifteen (15) PDH units per year or thirty (30) PDH units per biennium of continuing professional development as a condition for licensure renewal. ()

201. USE OF NCEES MODEL CPC STANDARD.

Licensees must comply with the National Council of Examiners for Engineering and Surveying (NCEES) Continuing Professional Competency (CPC) renewal standard as identified in the latest version of the NCEES Model Rule 240.30, and further described in the NCEES Continuing Professional Competency Guidelines. This standard is found at <https://ncees.org/wp-content/uploads/CPC-Guidelines-2017-final.pdf> and is subject to the following exceptions: ()

01. Excess Continuing Education. A licensee may carry forward up to thirty (30) hours of excess continuing education per renewal period. ()

02. Professional Society Membership. Membership in a professional society will count as one (1) PDH per year, for a maximum of two (2) PDH per profession per year. ()

202. – 299. (RESERVED)

SUBCHAPTER D – RULES FOR CORNER PERPETUATION AND FILING
(Rules 300 through 399)

300. FORM.

The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, 1510 E. Watertower St., Ste. 110, Meridian, ID 83642-7993. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced. ()

301. COMPLETION OF FORM.

Prior to filing of the form, the professional land surveyor performing the work shall complete the form in compliance with the requirements set forth in these rules. Additional information, for example latitude and longitude, with datum used, may be included. ()

302. CONTENTS ON THE FORM.

The contents on the form must contain the following: ()

01. Record of Original Corner and Subsequent History. Information provided in this section includes the name of the original surveyor and the date or dates on which the original survey was performed and a description of the original monument set. The information also includes the history of subsequent remonumentation, including the name(s) of the surveyor(s), the agency or company they represented, the date(s) of the survey(s) and a description of all monuments found or set, including all monuments and accessories that are not shown on previously recorded corner records. Information provided in this section also includes the instrument numbers of all previously recorded corner records, or the filing information if the corner record was not recorded, pertaining to the corner in question. ()

02. Description of Corner Evidence Found. Information provided in this section includes a description of any evidence found relating to the original corner. If no evidence of the original corner is found, evidence of a subsequent remonumentation shall be indicated on the form. ()

03. Description and Sketch of Monument and Accessories Found or Established to Perpetuate the Location of this Corner. Information provided in this section includes a description and a sketch of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey if magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories. ()

04. Surveyor's Certificate. Include a print of the surveyor's name, the license number issued by the Board, and the name of the employer for whom the surveyor is working. ()

05. Seal, Signature, Date. Include an imprint of the surveyor's professional land surveyor seal, which is signed and dated by the surveyor. ()

06. Marks on Monument Found or Set. Include a sketch or legible image of the marks found or placed on the monument, if applicable. ()

07. Diagram. Include clear marks on the section diagram the location of the monument found or being established or reestablished in the survey. ()

08. Location. State the county, section, township, range and the monument location being established or reestablished or found in the survey. ()

303. -- 399. (RESERVED)

SUBCHAPTER E – RULES FOR COORDINATE SYSTEM OF LAND DESCRIPTION
(Rules 400 through 499)

400. STATE PLANE COORDINATES.

The State Plane Coordinate System of 1983, described in NOAA Manual NOS NGS 5, reprinted September 1995, available at the URL https://www.ngs.noaa.gov/library/pdfs/NOAA_Manual_NOS_NGS_0005.pdf is adopted as the official system of projections for the Idaho Plane Coordinate System (IPCS). The Datum for the IPCS is the North American Datum of 1983 (2011) epoch 2010, defined in NOAA Professional Paper NOS 2, dated December 1989 and found at the URL: https://geodesy.noaa.gov/library/pdfs/NOAA_PP_NOS_0002.pdf; further described in Table 1 of Datums and reference frames, last revised July 1, 2020; available at the URL: <https://geodesy.noaa.gov/datums/horizontal/index.shtml>. ()

401. – 999. (RESERVED)

24.37.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

000. LEGAL AUTHORITY.

The Rules of the Idaho Real Estate Commission contained herein have been adopted pursuant to Section 54-2007, Idaho Code. Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code. ()

001. SCOPE.

These rules contain the requirements for implementation and enforcement of the Idaho Real Estate License Law, the Idaho Real Estate Brokerage Representation Act, and the Subdivided Lands Disposition Act, contained in Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code. ()

002. – 005. (RESERVED)

006. ELECTRONIC SIGNATURES.

Electronic signatures are permissible in accordance with the Uniform Electronic Transactions Act, Title 28, Chapter 50. ()

007. -- 099. (RESERVED)

APPLICATION, LICENSURE, AND TERMINATION OF LICENSES

Rules 100 through 199

100. FEES.

License and other fees:

	Initial License	Renewal	Late Fee	Other
Broker	\$160	\$160	\$25	
Salesperson	\$160	\$160	\$25	
Business Entity	\$50	\$50	\$25	
Branch Office	\$50	\$50	\$25	
Cooperative License	\$100			
Education or License History				\$10
License Certificate				\$15

()

101. – 104. (RESERVED)

105. CONDITIONS TO RENEW EXPIRED LICENSE.

The Commission may accept a licensee's application to renew an expired license upon the following conditions:

()

01. Payment of Late Fee. The applicant must pay the late license renewal fee. ()

02. Renewal After Expiration of Active License. If an active license expires, the licensee must complete and submit with the application an attestation that during the period the license was expired, the licensee either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code. ()

03. Investigate or Discipline a Licensee. Nothing in this Section limits the ability of the Commission to investigate or discipline a licensee for violating Subsection 54-2018(3), Idaho Code, or for violating any other provision of the Real Estate License Law or these rules. ()

106. -- 116. (RESERVED)

117. MANDATORY ERRORS AND OMISSIONS INSURANCE.

Every licensee, upon obtaining or renewing an active real estate license in the state of Idaho will have in effect and maintain a policy of errors and omissions insurance as required by Section 54-2013, Idaho Code, to cover all activities contemplated under Chapter 20, Title 54, Idaho Code and will certify such coverage to the Commission in the form and manner prescribed by statute, these rules, and any policy adopted by the Commission. ()

118. INSURANCE PLAN.

The Commission will make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules. ()

01. Insurance Carrier. For the purposes of Section 118: ()

a. Shall maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; ()

b. Is and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; and ()

c. Is and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules. ()

02. Approved Policy. The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance. That policy shall provide, at a minimum, the following terms and conditions:

	Limit Liability Coverage for Each Occurrence Not Less Than	Annual Aggregate Limit Not Less Than
Individual License Coverage	\$100,000*	\$300,000*
Firm Coverage	\$500,000*	\$1,000,000*
*Not including costs of investigation and defense		

a. A deductible amount of not greater than three thousand five hundred dollars (\$3,500), which includes costs of investigation and defense; ()

b. A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; ()

c. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and ()

d. Prior acts coverage shall be offered to licensees with continuous past coverage. ()

119. (RESERVED)

120. CERTIFICATION A PREREQUISITE FOR LICENSE ISSUANCE OR RENEWAL.

Issuance or renewal of an active license requires certification of compliance that satisfies the requirements of Section

54-2013, Idaho Code. ()

121. FAILURE TO MAINTAIN INSURANCE.

Failure of a licensee to obtain and maintain insurance coverage required by Section 54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will result in denial or inactivation of any active license and will be deemed insufficient application for licensure under Section 67-5254, Idaho Code. A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action. ()

122. FALSIFICATION OF CERTIFICATES.

Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the Commission which is false, fraudulent, or misleading, will be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein will entitle such licensee to notice and hearing on the automatic inactivation of license. ()

123. -- 299. (RESERVED)

BUSINESS CONDUCT
Rules 300 through 399

300. DISPUTES CONCERNING COMMISSIONS AND FEES.

The Idaho Real Estate Commission will not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. ()

301. (RESERVED)

302. TITLE OPINIONS.

No real estate broker or sales associate will pass judgment upon or give an opinion with respect to the marketability of the title to property in any transaction. ()

303. LEGAL OPINIONS.

A broker or sales associate will not discourage any party to a real estate transaction from seeking the advice of an attorney. ()

304. (RESERVED)

305. EDUCATION RECORDS ACCESS.

As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education record of any licensee currently licensed with the broker. ()

306. -- 399. (RESERVED)

CONTINUING EDUCATION
Rules 400 through 499

400. -- 401. (RESERVED)

402. APPROVED TOPICS FOR CONTINUING EDUCATION.

Continuing education is to assure that licensees possess the knowledge, skills, and competency necessary to function in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course will enable licensees to better serve real estate consumers. ()

01. Topics Approved by the Commission. Topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, will be approved by the Commission as they pertain to real estate

brokerage practice and actual real estate knowledge. ()

02. Topics Not Eligible for Continuing Education Credits. Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will not be eligible for approval. ()

403. -- 499. (RESERVED)

EDUCATION TEACHING STANDARDS
Rules 500 through 599

500. MINIMUM TEACHING STANDARDS.

All courses offered for credit by a certified provider will be taught in accordance with the standards and written policies adopted by the Real Estate Commission. Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization. ()

01. Certification Requirement. A course required to be taught by a Commission-certified or Commission-approved instructor will be taught only by an instructor that is currently approved or certified for that course. ()

02. Outlines and Curriculum. A course must be taught in accordance with the course outline or curriculum approved by the Commission. ()

03. Attendance Requirement. The course instructor will adhere to the Commission's written attendance policy and credit hours will only be submitted for students who have successfully met the attendance requirements for which the course was approved. ()

04. Maintaining Exam Security. The instructor will take reasonable steps to protect the security of course examinations and will not allow students to retain copies of final course examinations or the exam answer key. ()

05. Use of Exam Questions Prohibited. The instructor will not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. ()

501. -- 999. (RESERVED)

24.39.20 – RULES GOVERNING PLUMBING

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Section 54-2601, 54-2605, 54-2606, 54-2607, 54-2617, 54-2624, 67-2604, 67-2614, 67-9406 and 67-9409, Idaho Code. ()

001. SCOPE.

The rules prescribe criteria and fees for issuance of certificates of competency, plumbing permits, and inspections of plumbing installations, civil penalties, and adoption and amendment of the Idaho State Plumbing Code. ()

002. DEFINITIONS.

01. Fixture. Any water using or waste producing unit attached to the plumbing system, including sewers, water treatment equipment, solar systems, sprinkler systems, hot tubs and spas. ()

003. -- 099. (RESERVED)

100. CERTIFICATES OF COMPETENCY AND REGISTRATION.

01. Apprentice Registration and Renewal. To register or renew an apprentice registration, a person shall complete an application and pay all associated fees. ()

02. Journeyman Certificate of Competency. An applicant must pass an examination designated by the Board and either (a) submit evidence of a minimum of eight thousand (8,000) hours of work experience as an apprentice making plumbing installations in accordance with the requirements of the jurisdiction in which the applicant obtained the experience and satisfactory completion of 576 hours of a board-approved course of instruction, or (b) submit proof of sixteen thousand (16,000) hours of plumbing experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. Pipe fitting and appliance plumbing specialty work will not count towards the experience qualifications for a journeyman's certificate of competency. ()

a. Examination. An applicant may sit for the exam after showing proof of completion of either 576 hours of board-approved course of instruction or 16,000 hours of plumbing experience. ()

03. Contractor and Specialty Contractor Certificate of Competency. An applicant must hold a journeyman certificate of competency for a contractor certificate or relevant specialty journeyman certificate for a specialty contractor certificate, successfully pass an examination designated by the Board, and provide a compliance bond in the amount of two thousand dollars (\$2,000). Any such bond is required to be effective for the duration of the certificate period and proof of renewal of the compliance bond is required to renew or revive a certificate. The specialty contractor's scope of work is limited as set forth in Rule 100.04.c or Rule 100.04.e. ()

a. Restrictive Use of Contractor Certificate. A contractor or specialty contractor can only represent one person or entity as stated on an original or renewal license application. In the event the representation changes or ends for any reason, the contractor or specialty contractor must immediately notify the Division in writing. Failure to provide such notification constitutes improper transferring of a license. ()

04. Specialty Apprentice Registration and Specialty Journeyman Certificates of Competency. ()

a. Specialty Apprentice must maintain state registration and be employed by a licensed contractor. ()

b. Appliance Specialty Journeyman. An applicant must pass an examination designated by the Board and either (a) submit evidence of a minimum of three thousand (3,000) hours apprentice on-the-job specialty-related experience and satisfactory completion of 72 hours of board-approved specialty-related training classes or (b) submit evidence of a minimum of six thousand (6,000) hours of specialty-related work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ()

c. Appliance Specialty Permitted Scope of Work. Permitted, in one-family and two-family residences only, to disconnect, cap, remove, and reinstall within sixty (60) inches of original location: water heating appliance; water treating or filtering devices; air or space temperature modifying equipment which involves potable water; humidifier; temperature and pressure relief valves; condensate drains; and indirect drains. Does not include installation, testing, or certifying of backflow prevention devices. Does not include any modification to the drain, waste or vent systems. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform

Plumbing Code. ()

d. Water Pump Specialty Journeyman. An applicant must pass an examination designated by the Board and submit evidence of a minimum of three thousand (3,000) hours of specialty-related work experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ()

e. Water Pump Specialty Permitted Scope of Work. Permitted to install and connect water service piping from pump to storage expansion pressure tank in one (1) and two (2) family residences only. Does not include installation, testing or certifying of backflow prevention devices. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform Plumbing Code. ()

101. -- 299. (RESERVED)

300. CIVIL PENALTIES.

The acts described in this section subject the violator to a civil penalty not to exceed one thousand dollars (\$1,000) for each separate count or offense. ()

01. Statute or Rule. Failure to comply with any provision of Chapter 26, Title 54, Idaho Code or Board Rule. ()

02. Certification or Registration. Except as provided by Section 54-2602, Idaho Code, performance of plumbing without an active certificate of competency or registration as required by Idaho Code 54-2611. ()

03. Performance Outside Scope. Performance of any plumbing installation, alteration, or maintenance by a specialty contractor or specialty journeyman outside the scope of the specialty certificate of competency. ()

04. Employees. Knowing employment of a person who does not hold an active certificate of competency or registration as required by Idaho Code 54-2611 to perform plumbing. ()

05. Supervision. Working as an apprentice or specialty apprentice without the required journeyman supervision or employing an apprentice without providing the required journeyman supervision. ()

06. Fees, Permits, and Inspections. Failure to obtain a required permit, pay applicable fees, properly post a permit, or request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations or repairs. ()

07. Corrections. Failure to make corrections in the time allotted in the notice on any plumbing installation. ()

08. Misrepresentation of Fees. Misrepresentation of the permit or inspection fees to the customer. ()

09. Advertising. Advertising to engage in the business, trade, practice, or work of a plumbing contractor as defined in Section 54-2611, Idaho Code, without holding a current and valid plumbing contractor certificate of competency issued by the Division or advertising without including the contractor certificate of competency number in the advertisement. Advertising includes, but is not limited to: newspaper, telephone directory, community flier ads or notices; telephone, television, radio, internet, or door-to-door solicitations. ()

10. Order. Failure to comply with any lawful order of the Board or Division administrator. ()

301. -- 499. (RESERVED)

500. PERMITS AND INSPECTIONS.

01. Permits. ()

a. Permits will be furnished to a plumbing contractor upon submission of a complete application and proper permit fee. For commercial or industrial plumbing, a verified copy of bid acceptance must be submitted with the application. Permit serial numbers must be registered in the name of the plumbing contractor and are transferable only as provided herein these rules. ()

b. Homeowners making plumbing installations on their own premises under the provisions of Section 54-2602(1)(a), Idaho Code, must secure a plumbing permit by making application to the Division as provided by Section 54-2620, Idaho Code. ()

c. Expiration. Every permit issued shall expire and become null and void after three hundred sixty-five (365) days from the purchase date or last inspection. A permit may be renewed for an additional year upon receipt of Division approval and payment of a sixty-five dollar (\$65) renewal fee. ()

d. Transferring a Permit. A plumbing permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself and assigning all responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the plumbing work is to be performed and for which the permit was issued or such owner’s designated legal agent in cases where the property owner has terminated his legal relationship with the plumbing contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit must be paid to the Division. ()

02. Permit Fee Schedule. ()

a. New Residential. Includes all buildings with plumbing systems being constructed on each property. The following fees shall apply to new residential construction:

One-and two-Family Dwelling Units	
Square Feet	Fee
Up to 1,500	- \$130
1,501 to 2,500	- \$195
2,501 to 3,500	- \$260
3,501 to 4,500	- \$325
Over 4,500	- \$325 plus \$65 for each additional 1,000 square feet or portion thereof

()

b. Miscellaneous. The following fees shall apply for the types of permits listed:

Type	Fee
Existing residential	\$65 per inspection plus \$10 for each additional fixture
Requested inspection	\$65 per hour or portion thereof plus costs of out-of-state travel
Technical service	\$65 per hour or portion thereof
Plan check	

Type	Fee
Mobile home, manufactured home, or recreational vehicle park	Calculated under Subsection 500.02.c. of these rules
Sewer or water service line - nonresidential (new construction, installations, and replacements)	
Reclaimed water system	
Lawn sprinkler system - nonresidential	
Lawn sprinkler system - residential	\$65 per inspection
Sewer or water service line - residential (new construction, installations, and replacements)	
Mobile or manufactured home	
Modular building	
Multipurpose residential fire sprinkler	\$65 or \$4 per fire sprinkler head, whichever is greater
Gray water system	\$130 per inspection

()

c. Other Installations Including Multifamily, Industrial and Commercial. The following fees shall apply to multifamily, industrial, and commercial installations and installations not specifically mentioned elsewhere in this Fee Schedule. The plumbing system cost is the cost to the owner of labor charges and other costs incurred to complete the installation of equipment and materials installed as part of the plumbing system. All fees calculated under this Subsection must be based on the total plumbing system cost, which must be listed on the permit.

Plumbing System Cost	Fee
Up to \$10,000	- \$60 plus 2% of plumbing system cost
\$10,000 to \$100,000	- \$260 plus 1% of plumbing system cost exceeding \$10,000
Over \$100,000	- \$1,160 plus .5% of plumbing system cost exceeding \$100,000

()

d. Additional Fees. A fee of sixty-five dollars (\$65) per hour or portion thereof shall apply to trips to inspect when the permit holder has given notice to Division that the work is ready for inspection and it is not; if the permit holder has not accurately identified the work location; if the inspector cannot gain access to make the inspection; if corrections are required by the inspector as a result of the permit holder improperly responding to a corrective notice; or when corrections have not been made in the prescribed time, unless an extension has been requested and granted.

()

03. Required Inspections.

()

a. Ground Work Inspection Tags. For groundwork to be covered, with acceptance by the inspector. A tag will be attached in a prominent location, preferably to a vertical riser.

()

b. Rough-In Inspection Tags. For rough-in, prior to covering or concealing, with acceptance by the inspector. A tag will be placed in a prominent location.

()

c. Final Inspection Tags. For final, attached when the plumbing as specified on the permit is complete

and conforms to the requirements of the code and rules. ()

d. Inspection Tags for Unacceptable Plumbing. “Notice of Correction” inspection tags are attached to indicate the plumbing installation is not acceptable and corrections are required. A reinspection and reinspection fee for such installations shall be required. ()

501. -- 599. (RESERVED)

600. IDAHO STATE PLUMBING CODE.

Pursuant to Section 54-2601, Idaho Code, the Board adopts, as the Idaho State Plumbing Code (ISPC), the 2015 Uniform Plumbing Code, including Appendices A, B, C, D, E, G, I, J, K and L, with the following amendments: ()

01. Section 105.3 Testing of Systems. ()

a. Delete and replace the following: Plumbing systems must be tested and approved in accordance with this code or the Authority Having Jurisdiction. Tests may be conducted in the presence of the Authority Having Jurisdiction or the Authority Having Jurisdiction’s duly appointed representative. ()

b. No test or inspection is required where a plumbing system, or part thereof, is set up for exhibition purposes and has no connection with a water or drainage system. In cases where it would be impractical to provide the required water or air tests, or the presences of the Authority Having Jurisdiction, or for minor installations and repairs, the Authority Having Jurisdiction, in accordance with procedures established thereby, is permitted to make such inspection as deemed advisable in accordance with the intent of this code. Joints and connections in the plumbing system must be gastight and watertight for the pressures required by the test. ()

02. Section 218 Definitions. Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. ()

03. Section 401.2 Qualities of Fixtures. Replace with the following: Plumbing fixtures must be constructed of dense, durable, non-absorbent materials and must have smooth, impervious surfaces, free from unnecessary concealed fouling surfaces. ()

04. Section 403.3 Exposed Pipes and Surfaces. Delete. ()

05. Section 408.5 Finished Curb or Threshold. Delete the last sentences of the first paragraph and replace with the following: The finished floor of the receptor must slope uniformly from the sides toward the drain not less than one-eighth (1/8) inch per foot (20.8 mm/m), nor more than one-half (1/2) inch per foot (41.8 mm/m). ()

06. Section 408.7.5 Tests for Shower Receptors. Delete. ()

07. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Delete. ()

08. Table 501.1(1) First Hour Rating. Delete Table 501.1(1). ()

09. Section 503.1 Inspection of Chimneys or Vents. Add the following to the end of section 503.1: Water heating appliances using Category 3 or 4 exhaust venting must be tested in its entirety with five (5) pounds of air for fifteen (15) minutes. Plastic vents must be constructed using manufacturer’s instructions. ()

10. Section 507.2 Seismic Provisions. Delete. ()

11. Section 507.13 Installation in Garages. Replace 507.13 with the following: Any plumbing appliance or appurtenance in residential garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit must be installed so that burners, burner-ignition devices or other sources of ignition are located not less than eighteen (18) inches (450 mm) above the floor unless listed as flammable vapor ignition resistant. ()

12. **Section 603.2 Approval of Devices or Assemblies.** Delete last paragraph. ()
13. **Table 603.2 Backflow Prevention Devices, Assemblies and Methods.** ()
- a. Delete from the table the entire row related to freeze resistant sanitary yard hydrant devices. ()
- b. Delete the backflow preventer for Carbonated Beverage Dispensers text from the first column of the table and replace with the following: Backflow preventer for Carbonated Beverage Dispensers (Reduced Pressure Principle Backflow Prevention Assembly). ()
14. **Section 603.4.2 Testing.** Delete last sentence. ()
15. **Section 603.5.7 Outlets with Hose Attachments.** Delete and replace with the following: Potable water outlets with hose attachments, other than water heater drains, boiler drains, freeze resistant yard hydrants and clothes washer connections, must be protected by a nonremovable hose bibb-type backflow preventer, a nonremovable hose bibb-type vacuum breaker, or by an atmospheric vacuum breaker installed not less than six (6) inches (one hundred fifty-two (152) mm) above the highest point of usage located on the discharge side of the last valve. In climates where freezing temperatures occur, a listed self-draining frost-proof hose bibb with an integral backflow preventer or vacuum breaker must be used. ()
16. **Section 603.5.12 Beverage Dispensers.** Delete and replace with the following: Potable water supply to, carbonated beverage dispensers must be protected by an air gap or a Reduced Pressure Principle Backflow Prevention Assembly in accordance with ASSE 1013. For carbonated beverage dispensers, piping material installed downstream of the backflow preventer must not be affected by carbon dioxide gas. Potable water supply to beverage dispensers and coffee machines must be protected by an air gap or a vented backflow preventer in accordance with ASSE 1022. ()
17. **Section 603.5.17 Potable Water Outlets and Valves.** Delete. ()
18. **Section 603.5.21 Chemical Dispensers.** Add the following new section 603.5.21: The water supply to chemical dispensers must be protected against backflow. The chemical dispenser must comply with ASSE 1055 or the water supply must be protected by one of the following methods: ()
- a. Air gap; ()
- b. Atmospheric vacuum breaker (AVB); ()
- c. Pressure vacuum breaker backflow prevention assembly (PVB); ()
- d. Spill-resistant pressure vacuum breaker (SVB); or ()
- e. Reduced-pressure principle backflow prevention assembly (RP). ()
19. **Section 604.10.1 Tracer Wire.** Add the following exception: Where the electrical wiring for the pump is installed in the same trench as the water line, from the point of origin to the structure, a tracer wire is not required. ()
20. **Section 605.6.2 Mechanical Joints.** Add to the end of the section the following: Listed PE (polyethylene), one hundred sixty (160) psi minimum, water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings must be used. Polyethylene (PE) plastic pipe or tubing and fitting joining methods must be installed in accordance with the manufacturer’s installation instructions. ()
21. **Section 609.1 Installation.** Delete the following sentence: Building supply yard piping must be not less than twelve (12) inches (305 mm) below the average local frost depth; and replace it with the following: The

cover must be not less than forty-two (42) inches (1068mm) below grade. ()

22. Section 609.4 Testing. Deleting the phrase “Except for plastic piping,” at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer’s installation standards. ()

23. Section 609.10 Water Hammer. Does not apply to residential construction. ()

24. Section 609.11 Pipe Insulation. Delete. ()

25. Table 610.3 and Appendix Table A 103.1. Change fixture unit loading value for both public and private for bathtub or combination bath/shower, and clothes washers to two (2) fixture units. ()

26. Section 610.2 Pressure Loss. Add the following: All new one (1) and two (2) family residences built slab on grade or that will have a finished basement at the time of final inspection must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. ()

27. Table 611.4 Sizing of Residential Softeners. Amend Footnote 3 to read: Over four (4) bathroom groups, softeners must be sized according to the manufacturer’s standards. ()

28. Section 612.0 Residential Sprinkler System. Add the following to the end of the first sentence in section 612.1: and the requirements of the Authority Having Jurisdiction (AHJ). ()

29. Table 702.1 Drainage Fixture Unit Values (DFU). Change fixture unit loading value for clothes washers, domestic for private to two (2) fixture units. ()

30. Section 703.1 Minimum Size. Add the following at the end of section 703.1: No portion of the drainage or vent system installed underground, or underground under concrete must be less than two (2) inches in diameter. ()

31. Section 704.2 Single Vertical Drainage Pipe. Two inch (2”) and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. ()

32. Section 704.3 Commercial Sinks. Delete. ()

33. Table 703.2 Maximum Unit Loading and Maximum Length of Drainage and Vent Piping. Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. ()

34. Section 705.5.2 Solvent Cement Joints. Add to the end of the section the following: PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. ()

35. Section 707.4 Locations. Add the following: A clean out must be installed for double sanitary tees two (2) inches (50 mm) or less in diameter that receive the discharge from fixture connections. Exception in Section 707.4 does not apply. A full-sized accessible cleanout must be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line must be installed at the junction of the building drain and the building sewer. Cleanouts must be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. ()

36. Section 710.3(4) Sewage Ejectors and Pumps. Add: Exception (4): One (1) pump is permitted for “public use” occupancies provided that such tank receives the discharge of not more than one (1) water closet and ten (10) fixture units (See Section 710.9 Alarms). ()

37. Section 710.5 Size Building Drains and Sewers. Add the following exception: In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. ()

38. Section 712.1 Media. In the first sentence, delete the phrase “except that plastic pipe must not be tested with air.” ()

39. Section 717.0 Size of Building Sewers. Add the following to the end of section 717.1: Exception: The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and must run full size to inside the foundation or building lines. ()

40. Section 723.0 General. Delete the following sentence: “Plastic DWV piping systems must not be tested by the air test method.” ()

41. Section 801.3.3 Food Handling Fixtures. Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm). ()

42. Section 805.41 General. Add to the end of the first paragraph the following: Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths (3/4) inch minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths (3/4) inch. ()

43. Section 807.3 Domestic Dishwashing Machines. A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the countertop and secured properly. ()

44. Section 906.1 Roof Termination. Add the following: ()

a. Sidewall venting. When sidewall venting is utilized, the vent must extend flush with the eaves/gable end, turn down using a ninety (90) degree ell, and terminate as close to the roof peak as possible. The vent end must be properly screened. Sidewall venting is acceptable on new or remodel construction on cabins, log homes, and residential or commercial buildings. ()

45. Section 908.1 Vertical Wet Venting. Add to the end of the section the following: A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 of the ISPC are met. ()

46. Section 909.0 Special Venting for Island Fixtures. Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). ()

a. An A.A.V. may be used only in residential buildings. ()

b. In remodels, an A.A.V. may be used with island fixtures or remotely located sinks such as in bar, kitchen, or laundry tray locations. An A.A.V. may not be used in bathroom groups. ()

c. In new construction, an A.A.V. may be used on island fixture sinks. ()

d. Each A.A.V. may be used to vent only one (1) floor. ()

e. Each A.A.V. must be readily accessible. ()

f. The cross-sectional area of venting must remain the same and must meet the largest required building drain. ()

g. An A.A.V. may only be installed in accordance with the manufacturer’s installation standards as

per ASSE 1051. ()

h. An A.A.V. may not be used in an attic, crawl space, outside installation, or in connection with chemical or acid waste systems. ()

47. Section 1002.3 Change of Direction. Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. ()

48. Section 1007.0 Trap Seal Protection. Delete section 1007.1 and replace with the following: Floor drains or similar traps directly connected to the drainage system and subject to infrequent use must be protected with a trap seal primer or other approved trap seal protection device, except where not deemed necessary for safety or sanitation by the Authority Having Jurisdiction. Trap seal primers must be accessible for maintenance. ()

49. Section 1016.1 Discharge. Add the following to the end of section 1016.1: Floor drains installed in residential garages must be permitted to use the interceptor as the fixture trap. ()

50. Section 1502.1 General. Add to this section the following paragraph: Plumbing for a gray water system from any fixture up to, but not to include the exterior irrigation system tank must be inspected by the Authority Having Jurisdiction. The Idaho Department of Environmental Quality (IDEQ) has jurisdiction to inspect and approve the installation of the exterior irrigation system tank and all piping therefrom to the point of disposal in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." Gray water system location and design criteria requirements related to irrigation and leaching is determined in accordance with the requirements as established by the IDEQ. ()

601. -- 999. (RESERVED)

24.39.31 – RULES FOR FACTORY BUILT STRUCTURES

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Sections 39-4003, 39-4302, 44-2102, 44-2104, 44-2201, and 44-2202, Idaho Code. ()

001. SCOPE.

Sections 100 through 199 of these rules apply to the manufacture and installation of modular buildings in Idaho. Sections 200 through 299 of these rules apply to persons engaged in the business of manufacturing, selling, or installing manufactured or mobile homes for purposes of human habitation in Idaho. Sections 300 through 399 of these rules apply to disputes between persons licensed as manufacturers, retailers, and installers of manufactured homes. Sections 400 through 499 of these rules apply to the installation of manufactured or mobile homes in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

The terms defined in this section have the following meaning, unless the context clearly indicates another meaning. ()

01. Alterations to Manufactured Homes. The replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a retailer but prior to sale by a retailer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It includes any modification made in a manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance “plug-in” to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring “plug-in” to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected. ()

02. Branch Office. An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home retailer is conducted simultaneously with and physically separated from his principal place of business. There must be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign must provide the business name of the retailer. ()

03. Business. Occupation, profession, or trade. ()

04. Deceptive Practice. Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: ()

a. Is misleading or inaccurate in any material respect; ()

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, or installation company. ()

05. Insignia. A label or tag issued by the Division to indicate compliance with the codes, standards, rules, and regulations established for Modular Buildings and Commercial Coaches. ()

06. Installation. The term includes “setup” and is the complete operation of fixing in place a modular building or manufactured or mobile home for occupancy. ()

07. Manufactured Home. A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term must include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. Section 5401, et seq. ()

08. Manufactured Home Retailer. Except as otherwise provided in these rules: ()

- a. Any person engaged in the business of selling or exchanging new and used units; or ()
- b. Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. ()

09. Mobile Home. A factory-assembled structure or structures generally constructed prior to June 15, 1976, the date of enactment of the National Manufactured Housing Construction and Safety Standards Act (HUD Code), and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. ()

10. Principal Place of Business. The primary physical location at which the business of a manufactured home retailer is lawfully conducted. Each of the following requirements must be met to qualify as the principal place of business: ()

- a. The business of the manufactured or mobile home retailer is lawfully conducted here; ()
- b. The office or offices of the retailer is or are located here; ()
- c. The public may contact the retailer here; ()
- d. The offices are accessible and open to the public; and ()
- e. The greatest portion of the retailer’s business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer’s principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there must be displayed on the exterior a sign permanently affixed to the land or building with letters providing the business name of the retailer clearly visible to the major avenue of traffic. ()

11. Transit Damage. Application to manufactured home means that damage encountered en route from the place of manufacture to the dealer or first owner involving structural integrity or any repair that does not result in return to the same construction or assembly as specified in the manufacturer’s design approval without additional reinforcement or change. ()

12. Used Manufactured Home or Mobile Home. A manufactured home or mobile home, respectively, which has been: ()

- a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or ()
- b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. ()

011. -- 099. (RESERVED)

SUBCHAPTER A – MODULAR BUILDINGS
(Rules 100 through 199)

100. PERMITS. Building permits must be obtained from the Division prior to the construction of structures governed by Title 39, Chapter 43, Idaho Code, or Sections 100 through 199 of these rules. ()

101. PLAN REVIEW.

01. Jurisdiction. The Division has exclusive jurisdiction and authority to conduct plan reviews of the in-plant construction of Modular Buildings. ()

02. Application Provisions. The provisions of this section apply only to plans for work that will be

accomplished at the place of manufacture. ()

102. FEES.

The following fees apply to the functions cited: ()

01. Modular Building Permit Fees. Other than as herein specified in this section, the permit fee schedule for Modular Buildings is as provided herein in Table 1-A plus ninety dollars (\$90) and two and one-half percent (2.5%) of the plumbing, electrical, and HVAC installation costs. The determination of value or valuation is based on the total value of all construction work for which a permit is issued.

TABLE 1-A – MODULAR BUILDING PERMIT FEES		
TOTAL VALUATION		FEE
\$1 to \$500	=	\$23.50
\$501 to \$2,000	=	\$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	=	\$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	=	\$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	=	\$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	=	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	=	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and up		\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof

()

02. Plan Review. The Modular Building fee includes an additional amount equal to sixty-five percent (65%) of the permit fee calculated in accordance with Table 1-A. A fee of sixty-five dollars (\$65) per hour applies to additional plan review required by changes, additions, or revisions to plans. ()

103. MODULAR BUILDINGS.

01. Enforcement and Administration. Any officer, agent, or employee of the Division is authorized to enter any premises during any normal or operational hours where Modular Buildings are manufactured for the purpose of examining any records pertaining to quality control and may inspect any such units, equipment, or installations to ensure compliance with the provisions of these rules and codes enumerated in Title 39, Chapter 43, Idaho Code. ()

02. Inspections. ()

a. Inspections at Manufacturing Plants. The Division conducts inspections at the manufacturing plant to determine compliance with Sections 100 through 199 of these rules and with codes adopted by Title 39, Chapter 41, Idaho Code, and Title 54, Chapters 10, 26, and 50, Idaho Code. ()

b. Qualifications of Inspectors. All inspectors performing inspections of modular buildings must be properly certified for the type of inspection being conducted. The Factory Built Structures Board recognizes certifications granted through the National Certification Program Construction Code Inspector program (NCPCCI),

the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC). Certifications must be current and of the proper classification for the structure or subsystem being inspected. ()

03. Installation Inspection. In order to complete the installation of an Idaho approved Modular Building, approval and inspection of the installation by the enforcement agency having jurisdiction over the site location is required. ()

04. Rights and Limitations of Local Enforcement Agencies. ()

a. A local enforcement agency has the right to require a complete set of plans and specifications approved by the Division for each Modular Building to be installed within its jurisdiction, to require that all permits be obtained before delivery of any unit. ()

b. A local enforcement agency does not have the right to: open for inspection any Modular Building or component bearing an Insignia to determine compliance with any codes or ordinances; require by ordinance or otherwise that Modular Buildings meet any requirements not equally applicable to on-site construction; or to charge permit or plan review fees for any portion of the structure prefabricated or assembled at a place other than the Building Site. ()

05. Insignia and Serial Number. ()

a. Each Modular Building section must bear a Division Insignia prior to leaving the manufacturing facility. Assigned Insignia are not transferable and are void when not affixed as assigned. ()

b. Each Modular Building must bear a legible identifying serial number. Each section of a multiple Modular Building must have the same identifying serial number followed by a numerical sequence identifier or a letter suffix, or both. ()

104. CIVIL PENALTIES.

The following acts subject the violator to penalties of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter: ()

01. Installation. Any person who transports a modular building to or installs a modular building on a building site in this state without first receiving approval and securing to the structure insignia evidencing such approval from the Division. ()

02. Modification. Any person who in any way modifies or alters a modular building prior to its initial occupancy which has previously been approved by the Division without first having received approval to do so from the Division. ()

03. Lawful Orders. Any person who fails, neglects, or refuses to obey any lawful order issued by the Administrator or his representative under Section 39-4306, Idaho Code, or who refuses to perform any duty lawfully enjoined upon him by the Administrator or his representative under Section 39-4306, Idaho Code. ()

105. -- 199. (RESERVED)

SUBCHAPTER B – MANUFACTURED/MOBILE HOME INDUSTRY LICENSING
(Rules 200 through 299)

200. LICENSE REQUIRED.

01. Minimum Age Requirement. No license will be issued to a person under eighteen (18) years of age at the time of license application. ()

02. Designated License Holder. Any applicant for a license under Sections 200 through 299 of these rules who is not a natural person must designate a natural person to be license holder and represent the corporation,

partnership, trust, society, club, association, or other organization for all licensing purposes under Sections 200 through 299 these rules including, but not limited to, testing and education. No issued licenses are transferable. ()

a. The authorization to act as designated license holder must be in writing, signed by the applicant and the person designated, and filed with the Division along with the application. ()

b. Any person designated under Subsection 200.02 of these rules represents one (1) applicant only, and must immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder is considered by the Division to be the licensee, even if the license holder is the designated representative of an organization. ()

c. The applicant and the person designated under Subsection 200.02 of these rules agree by acceptance of the designation that the designated person acts as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. ()

03. Proof of License. Proof of the existence of any license issued pursuant to Sections 200 through 299 of these rules is carried upon the person of any installation at all times during the performance of the installation work. Moreover, any license issued to a manufactured/mobile home retailer must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office must also be posted in a conspicuous place at the location licensed. ()

04. Real Estate Brokers. Licensed real estate brokers or real estate salesmen representing licensed real estate brokers are not required to obtain a license under Sections 200 through 299 of these rules to sell or lease a used unit that is currently carried on the tax rolls as personal property and that otherwise falls within the exemption contained in Section 44-2102(2), Idaho Code. ()

05. License for Manufacturers. To engage in business in the state of Idaho, each manufacturer must be licensed by the Division. ()

06. License for Branch Office of Manufactured/Mobile Home Retailer. ()

a. The Division requires as a condition of licensing any information it deems necessary for each location where a manufactured/mobile home retailer maintains a branch office. The mere listing of manufactured/mobile homes for sale does not constitute a branch office, but the use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes does constitute the maintenance of a branch office. A branch office manager may not manage more than one (1) branch office. ()

b. To open a branch office, a retailer must: obtain a license from the Division to operate the branch office. ()

07. License to Engage in Business as Manufactured/Mobile Home Retailer, Manufacturer, or Installer; Application; Bond; Issuance, Expiration, and Renewal. ()

a. Applicants for a manufacturer's, retailers, or installer's license must furnish: ()

i. Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, or installer; ()

ii. Any proof the Division may require that the applicant has a principal place of business; ()

iii. In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise retailer for the make concerned; ()

iv. The fee and proof of the bond required by Section 44-2103, Idaho Code; and ()

- v. Proof of passing the examination required by Sections 200 through 299 of these rules, as applicable. ()
- b. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. ()
- c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. ()

201. PROOF OF EDUCATION REQUIRED.

01. Satisfactory Proof for Initial Application Submission. An application for a license as a manufactured/mobile home installer must include proof satisfactory to the Division that the applicant has completed the following number of hours of initial education in order to be approved: ()

- a. Installers and retailers who are installers: eight (8) hours. ()
- b. The course of initial education must be approved by the Division and must include information relating to the provisions of Sections 200 through 299 of these rules, Title 44, Chapters 21, Idaho Code, and the National Manufactured Housing Construction and Safety Standards Act of 1974. ()

02. Satisfactory Proof for License Renewal. The Division will not renew any installer license, or retailer license of any retailer who is also an installer, issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or Sections 200 through 299 of these rules until the licensee has submitted proof satisfactory to the Division that he has, during the three (3) years immediately preceding the renewal of the license, completed at least eight (8) hours of continuing education. ()

03. Continuing Education Course. The course of continuing education must be approved by the Division and include information relating to the following: ()

- a. Manufactured housing or mobile home parks; ()
- b. The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes; ()
- c. Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and ()
- d. Sections 200 through 299 of these rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974. ()

202. EXAMINATION OF APPLICANT FOR LICENSE.

01. Required Examinations. The Division requires a written examination of each applicant for an initial license as a manufactured/mobile home retailer or installer. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within six (6) months of its expiration date. ()

02. Approval of Examination and Grade. Examinations for all classifications under Sections 200 through 299 of these rules must be approved by the Division and the Board. No license will be issued unless the applicant receives a final grade of seventy percent (70%) or higher. ()

203. DISCIPLINARY ACTION AGAINST LICENSEES.

The Division may deny, suspend, refuse to renew, or revoke any license issued under Title 44, Chapter 21, Idaho Code, or Sections 200 through 299 of these rules or reissue the license subject to reasonable conditions upon any of the following grounds: ()

01. Violation of Rules and Statutes. For any willful or repeated violation of Sections 200 through 299 or 400 through 499 of these rules, or Title 44, Chapters 21 or 22, Idaho Code. ()

02. Failure to Have Principal Place of Business. With regards only to a manufactured/mobile home retailer, failure of the applicant or licensee to have a principal place of business. ()

03. False Information. Material misstatement in the application or otherwise furnishing false information to the Division. ()

04. Disclosing Contents of Examination. Obtaining or disclosing the contents of an examination given by the Division. ()

05. Deceptive Practice. The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in Subsection 010.04 of these rules. ()

06. Failure to Provide Business Name. Failure to include in any advertising the name of the licensed retailer or installer. ()

07. Encouraging Falsification. Intentionally inducing an applicant or licensee to falsify an application. ()

08. Poor Workmanship. Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, Sections 200 through 299 or 400 through 499 of these rules, the National Manufactured Housing Construction and Safety Standards Act of 1974, or the latest Idaho adopted editions of and amendments to the International Residential Code, the National Electrical Code, the Idaho State Plumbing Code, and the International Mechanical Code. ()

09. Installation Supervisor Required. Failure to have an employee personally supervise any installation of a manufactured/mobile home. ()

10. Failure to Honor Warranties. Failure to honor any warranty or other guarantee given by a licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home. ()

11. Revocation or Denial of License. Revocation or denial of a license issued pursuant to Sections 200 through 299 of these rules or an equivalent license by any other state or U.S. territory. ()

12. Failure to Respond to Notice. Failure to respond to a notice served by the Division. ()

13. Failure to Permit Access to Documentary Materials. Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division. ()

14. Conviction of Misdemeanor. Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code. ()

15. Conviction of Felony. Conviction or withheld judgment for a felony in this state, any U.S. territory, or country. ()

16. Dealing with Stolen Manufactured or Mobile Homes. To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home. ()

17. Violation of Permit or Inspection Requirements. To knowingly violate any permit or inspection requirements of any city or county of this state. ()

204. PROCEDURES FOR LICENSING SUSPENSION, REVOCATION OR NONRENEWAL.
Any proceeding to suspend, revoke, or not renew any license will be conducted as a contested case in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and the “Idaho Rules of Administrative Procedure of the

Attorney General,” IDAPA 04.11.01.000, et seq. ()

205. APPLICATION FOR NEW LICENSE.

Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation. ()

206. FEES.

01. Fees for Issuance and Renewal of License. The following fees for the issuance and renewal of a license will be charged: ()

a. Manufactured/mobile home retailer license: four hundred forty dollars (\$440). Retailers who are also installers will have to pay an installer's license fee to hold both licenses. ()

b. Manufacturer license: four hundred forty dollars (\$440); ()

c. Manufactured/mobile home installer license: two hundred twenty dollars (\$220); ()

02. Performance Bonding Requirements. Application for licensing will be accepted when accompanied by the performance bond required by Section 44-2103, Idaho Code. ()

207. MANUFACTURED HOMES CONSTRUCTION AND SAFETY STANDARDS.

Effective June 15, 1976, the latest published edition of the National Manufactured Home Construction and Safety Standards and Manufactured Home Procedural and Enforcement Regulations are in effect for all manufactured homes manufactured within the state of Idaho, and for all new manufactured homes for sale within the state of Idaho. All new manufactured homes offered for sale within Idaho after the effective date of this section bear the Housing and Urban Development (H.U.D.) label as authorized in the Manufactured Home Procedural and Enforcement Regulations. ()

208. CIVIL PENALTIES.

01. Type. Except as otherwise provided, the following acts subject the violator to penalties of not more than five hundred dollars (\$500) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter: ()

a. Industry Licensing. Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, or installer, as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division. ()

b. Deceptive Practice. Any retailer or installer who intentionally publishes or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or services sold or provided by a manufacturer, retailer, or installer. ()

c. Dealing with Stolen Manufactured or Mobile Homes. Any person who knowingly purchases, sells, or otherwise acquires or disposes of a stolen manufactured or mobile home is subject to a civil penalty of not more than one thousand dollars (\$1,000). ()

d. Failure to Maintain a Principal Place of Business. Any person who is a retailer duly licensed by the Division and who fails to maintain a principal place of business within Idaho. ()

e. Violation of Rules and Statutes. Any person who knowingly violates Sections 200 through 299 or 400 through 499 of these rules or Title 44, Chapters 21 or 22, Idaho Code. ()

02. Gross Violation. In case of continued, repeated, or gross violations of Sections 200 through 299 or 400 through 499 of these rules, a license revocation may be initiated for licensed individuals under Title 44, Chapter 21, Idaho Code. Non-licensed individuals are subject to prosecution by the appropriate jurisdiction under Idaho law. ()

209. -- 299. (RESERVED)

**SUBCHAPTER C – MANUFACTURED HOMES –
CONSUMER COMPLAINTS – DISPUTE RESOLUTION
(Rules 300 through 399)**

300. INVESTIGATION.

01. Site Inspection. The Division may perform a site inspection, based on the nature of a complaint or upon request of the complainant. ()

02. Fees. A charge for mileage to and from the inspection site, plus an hourly charge for the time spent conducting the inspection, is assessed the manufacturer, installer, or retailer if a site inspection is made upon a request by the manufacturer, installer, or retailer, and does not involve a serious defect or imminent safety hazard. ()

03. Inspection Report. Following a site inspection, the inspector will prepare a final report and include photographs. ()

301. ACTION.

A notification letter and copies of the complaint form and investigation findings may be provided to all involved parties and HUD. ()

01. Division Action. Any Division action, notification and follow-up are completed according to HUD guidelines. ()

02. License File. If the nature of the complaint pertains to retailer contractual issues or installation problems, a copy of the complaint is to be consolidated with the appropriate Division license files. ()

03. Correction or Repair. A Division building inspector will issue a report concerning correction or repair of defects that are a matter of dispute between the homeowner, retailer, installer, or manufacturer. The report will include the likely cause of the defect and identify the party responsible for creating the defect that is in need of correction or repair. ()

302. DECISIONS - APPEALS - INFORMAL DISPOSITION.

01. Decisions. The Administrator will review the inspector's report and set forth the required corrective action and identify the party responsible for such action. The Administrator may initiate a contested case proceeding if, in his sole discretion, he determines that such a proceeding or further investigation would be of assistance in reaching a decision. The decision must direct the responsible party to complete the required corrective action within specified timelines and consider the needs of the involved parties including, but not limited to, safety, anticipated expense and availability of funds, time of year, and convenience to the parties. ()

02. Appeals. Decisions of the administrator are final orders for purposes of appeal. ()

03. Informal Disposition -- Arbitration -- Mediation. Unless otherwise prohibited by other provisions of law, informal disposition may be made of any complaint by negotiation, stipulation, agreed settlement, and consent order. The parties may agree to enter into binding arbitration or mediation. Informal settlement of matters is to be encouraged. ()

303. -- 399. (RESERVED)

**SUBCHAPTER D – MANUFACTURED OR MOBILE HOME INSTALLATIONS
(Rules 400 through 499)**

400. ADOPTION AND INCORPORATION BY REFERENCE.

The Idaho Manufactured Home Installation Standard (January 1, 2018 edition), is hereby adopted and incorporated

by reference into these rules. ()

401. APPLICATION -- COMPLIANCE.

01. Application -- State Preemption. Cities and counties may not adopt or enforce more or less stringent standards, except as permitted by Section 67-6509(a), Idaho Code, as it pertains to the siting of manufactured homes in residential areas. ()

02. Compliance -- Disciplinary Action Against Licensees. Failure to comply with these standards constitutes grounds for discipline as provided in Title 44, Chapter 21, Idaho Code. ()

402. USE OF MANUFACTURERS' INSTALLATION INSTRUCTIONS.

In any instance in which there is a conflict between the DAPIA installation instructions and the Idaho Manufactured Home Installation Standards, the DAPIA installation instructions supersede and serve as the controlling authority. ()

403. INSTALLATION PERMITS AND INSPECTIONS REQUIRED.

Installation permits must be obtained from the Division for installations in areas where there is no approved local program, or from a city or county that has by ordinance adopted building codes pursuant to Section 39-4116, Idaho Code, and whose installation program has been approved by the Division. All installations must be inspected and approved by the authority having jurisdiction before the manufactured home is occupied. ()

404. INSTALLATION PERMIT FEES.

A city or county whose installation inspection program has been approved by the Division establishes their own fee schedule for installation permits within their jurisdiction. Permits obtained from the Division are in accordance with the following schedule: ()

01. Single Section Unit. The permit fee is one hundred fifty dollars (\$150). ()

02. Double Section Unit. The permit fee is two hundred dollars (\$200). ()

03. More Than Two Sections. The permit fee for a home consisting of more than two (2) sections is two hundred fifty dollars (\$250). ()

04. Trade Permits. Trade permits are administered separately from installation permits, and fees for such are separate from the fees identified in Section 404 of these rules. ()

405. INSTALLATION TAGS REQUIRED.

The owner or installer of a new manufactured home must purchase an installation tag for fifty dollars (\$50) from the Division prior to commencing the installation of a manufactured home in Idaho. Such tag is required regardless of which jurisdiction has authority to perform the installation inspection. ()

406. APPROVAL OF LOCAL MANUFACTURED HOME INSTALLATION INSPECTION PROGRAMS.

01. Division Approval. A city or county that has by ordinance adopted a building code pursuant to Section 39-4116, Idaho Code, is eligible to participate in the inspection of manufactured and mobile homes. Such local installation inspection program must be approved by the Division to provide inspection services if the following minimum criteria is met: ()

a. Inspections are conducted by the city or county employing inspectors holding a valid certification as residential building inspector from the International Code Council; ()

b. Inspectors attended training sessions provided or approved by the Division and receive a certificate evidencing successful completion thereof. ()

02. Voluntary Withdrawal. A city or county may voluntarily withdraw from participation in the

program to inspect manufactured homes upon providing to the Administrator of the Division thirty (30) days written notice of its intention to do so. ()

407. MINIMUM TRAINING REQUIREMENTS FOR INSPECTORS.

All installation inspectors employed by the Division or a city or county must complete eight (8) hours of training or instruction approved by the Division every three (3) years dedicated to the installation and inspection of manufactured and mobile homes. ()

408. QUALITY ASSURANCE.

01. Inspected Installations. Any inspected installation is subject to quality assurance reviews by Division of Occupational and Professional Licenses. Findings made by the Division pursuant to such reviews will be forwarded to the inspection authority having jurisdiction. ()

02. Inspectors and Programs. All inspectors and approved programs, including the Division, are subject to review. ()

409. MINIMUM SCOPE OF INSTALLATION INSPECTION.

01. Scope. At a minimum, the inspection of the installation of a manufactured home by an installer includes the inspection record document must verify that the installer has visually inspected the installation of the mobile or manufactured home. ()

02. Inspection Minimum Requirements. At a minimum, the inspection of the installation of a manufactured home must include the following by an inspector: ()

a. Verification that site location is suitable for home design and construction, and inspection of site-specific conditions, including preparation and grading for drainage; ()

b. Inspection of the foundation construction; ()

c. Verification that installed anchorage meets minimum requirements; and ()

d. Verification of completed inspection record document. ()

410. -- 999. (RESERVED)

24.39.40 – SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS

000. LEGAL AUTHORITY.

This chapter is adopted by the administrator of the Division of Occupational Professional Licenses in accordance with Section 39-8605, Idaho Code. ()

001. SCOPE.

These rules govern the design, construction, installation, operation, inspection, testing, maintenance, alteration, or repair of elevators, escalators, moving walks, platform lifts, material lifts, and dumbwaiters. ()

002. ADOPTION AND INCORPORATION BY REFERENCE.

01. Documents. The following codes, amendments, and updates are hereby adopted and incorporated by reference into these rules for all conveyances subject to this chapter. ()

a. ANSI/ASME A17.1 2016, Safety Code for Elevators and Escalators with the following exceptions: ()

i. Compliance with section 2.8.3.3.2 requires that the means for disconnecting the main power, as required by this section, to be within sight of controller for all conveyances with an elevator machine room or control room. ()

ii. Compliance with section 8.11.2.1.5(c) Car and Counterweight Buffer testing must be conducted at slow speed in accordance with Item 5.9.2.1(a) in ANSI/ASME A17.2 2014. ()

iii. Compliance with Section 2.2.2.5, which requires a sump pump or drain in the elevator pit, is optional. If a sump pump or drain is installed, it must meet the requirements of this section. A sump with a cover must be provided in each elevator pit. ()

b. ANSI/ASME A17.3 2015 Safety Code for Existing Elevators and Escalators. ()

c. ANSI/ASME A17.4 1999 Guide for Emergency Personnel. ()

d. ANSI/ASME A17.5 2014 Elevator and Escalator Electrical Equipment. ()

e. ANSI/ASME A17.6 2010 Standard for Elevator Suspension, and Governor Systems. ()

f. ANSI/ASME A17.7 2012 Performance-based Safety Code for Elevators and Escalators. ()

g. ANSI/ASME A17.8 2016 Standard for Wind Tower Turbine Elevators. ()

h. ICC/ANSI A117.1 2009 Accessible and Usable Buildings and Facilities. ()

i. ANSI/ASME A18.1 2014 Safety Standards for Platform Lifts and Chairlifts. ()

j. ASME QE-1 2013 Standard for the Qualification of Elevator Inspectors. ()

02. Copies. Copies of the codes, amendments, and updates listed in Subsection 004.01 of these rules are available for review at the Division of Building Safety offices. ()

003. -- 010. (RESERVED)

011. INSPECTION REQUIREMENTS.

For an inspection may to take place: ()

01. Access. All machine rooms and spaces must be free of dirt and debris and have any obstacles to access removed. ()

02. Technician on Site. An elevator technician and fire alarm technician must be present on site to restore elevator and fire alarm systems. ()

03. Installation. The elevator installation must be complete and safe for inspection. Equipment, components, or systems installed on the conveyance must function in accordance with design and code requirements.

If equipment, components, or systems are installed that are not required by the currently adopted code, they must function properly or be removed. ()

04. Inspection Fees. Inspection fees for elevators are assessed and collected according to the schedule listed in Section 39-8616, Idaho Code, except that reinspection fees for all types of conveyances is one hundred dollars (\$100) for the first hour of inspection, or portion thereof, and one hundred dollars (\$100) for each hour of inspection thereafter. ()

012. APPROVAL OF NEW OR ALTERNATIVE TECHNOLOGY.

01. Administrator Approval Required. If, due to construction or technological impediments, an elevator or conveyance cannot comply with applicable code requirements, approval of new or alternative construction or technology may be requested from the administrator. Approval must be obtained before commencement of construction. ()

02. Submission Deadline. Details of the proposed construction or technology, including design, material specifications and calculations, and such other information as may be requested, must be submitted to the administrator at least thirty (30) days in advance of the anticipated construction start date. ()

a. The manufacturer of the new product or system must provide the administrator with an Accredited Elevator/Escalator Certification Organization (AECO) approval and certification in accordance with ANSI/ASME A17.7 Performance-based Safety Code for Elevators and Escalators or engineering and test data demonstrating that the proposed technology is safe for the intended purpose. ()

b. The owner of the new product or system must provide the administrator with a document in which the owner acknowledges that the proposed technology is not governed by the applicable safety code and assures the administrator that, at such time as the code is revised to include the product or system, the owner will modify the product or system to bring it into compliance. The owner must assure the administrator that if the product or system cannot be modified or altered to bring it into compliance with the applicable code it will be removed and replaced with code-compliant equipment. ()

c. The manufacturer of the new product or system must provide training to Division personnel on the proposed technology and any related products or systems at no cost to the Division. ()

03. Engineer Approval. The information provided in compliance with the foregoing requirements must be approved by an Accredited Elevator/Escalator Certification Organization (AECO) or a registered professional engineer experienced in elevator or conveyance design prior to submission to the administrator. ()

013. -- 999. (RESERVED)

24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to Section 54-1907, Idaho Code, as amended. ()

001. TITLE.

These rules govern the practice of public works contractors in Idaho. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in these rules. ()

01. Applicant. Any person who has filed an application with the administrator. ()

02. Compiled. A type of financial statement in which the information presented is based solely upon representations by an organization's management. ()

03. Estimated Cost. For the purposes of the application of Section 54-1903(i), Idaho Code, the term "estimated cost" refers to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved. ()

04. Financial Statement. A balance sheet and income statement prepared in accordance with generally accepted accounting principles. ()

05. Incidental Work. Work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. ()

06. Independent Audit Report. A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. ()

07. Licensee. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. ()

08. Qualified Individual. The person qualifying by examination as to the experience and knowledge required by Section 54-1910(a), Idaho Code. ()

09. Reviewed. Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. ()

010. -- 101. (RESERVED)

102. COMMUNICATION.

All communications are deemed officially received only when delivered to the office of the administrator. ()

103. PETITIONS.

An applicant or licensee seeking an order or decision of the administrator or the Board on any matter, or disciplinary proceeding, must file a written petition. ()

104. FORM AND CONTENT OF PETITION.

01. Form. The petition, including the heading, the name of the petitioner or person making the request, and the purpose of the petition must contain the following: ()

a. The petitioner's name, address, and license number. ()

b. The petitioner’s request in brief, precise and specific terms, including references to any pertinent statutes or rules, and a detailed explanation of the purpose for the request. ()

c. Statements of fact to support the request. Briefs and supporting documents may accompany petitions. ()

02. Service. The petition must be dated and signed by the petitioner, and filed as set forth in Section 102 of these rules. ()

105. LICENSE RENEWAL -- FILING DEADLINES; PETITIONS FOR EXTENSION OF TIME TO FILE; LAPSED LICENSES.

01. Filing Deadline. Applications for renewal of a license must be filed by the last working day of the month in which the license expires. ()

02. Extension of Time. A petition for an extension of time in which to renew must be filed by the last working day of the month in which the license expires. The petition must be accompanied by a fee in the amount of the prorated portion of the annual license fee for the class of license applied for, with a minimum fee of at least fifty dollars (\$50). The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and paid to the Division at the time of application for licensure. Petitions not accompanied by the required fees or filed after the license has expired will not be honored. ()

a. The petition must specify the number of days for which the extension is being requested; however under no circumstances may an extension exceed sixty (60) days. ()

03. Approval of Petition. Approval of a petition for an extension of time authorizes operation as a contractor until the administrator completes action on the renewal application, provided the application for renewal is filed with the Administrator within the extended time specified. ()

04. Failure to File. If the licensee fails to file a timely application for renewal or petition for extension, the license lapses and expires on the last day of the license period. Licenses not renewed in a timely manner are considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license. ()

05. Expedited Licensure. Upon an applicant’s request and payment of a fee of one hundred dollars (\$100), the Division will expedite its review and determination of a license application. The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and must be paid to the Division at the time of application for licensure. ()

106. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.

A petition to change or add types of construction must be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, financial responsibility, and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility must comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence must specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested. ()

107. -- 108. (RESERVED)

109. NOTICE.

In any contested case or other matter of Board business, written notification, mailed to the licensee or the applicant at the most current address on record with the Board, constitutes sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules. ()

110. APPLICATION FOR LICENSURE -- DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.

01. Application Documentation. To obtain a license, the applicant must submit to the administrator, on such forms and in a format as the administrator prescribes, including electronically, accompanied by the required fee for the class of license applied for, a complete written application for such license. All of the information submitted by the applicant must specifically pertain to work that is similar in scope and value to that for which licensure is being requested or that is being requested in a petition to change or add types of construction. The information contained in such application forms must include: ()

a. A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; ()

b. A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; ()

c. A general description of applicant's machinery and equipment; and ()

d. An annual financial statement, as herein defined, that covers a period of time ending no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with: ()

i. Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation; ()

ii. Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third-party in which the third-party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.e. of this rule, must be submitted with the license application. ()

e. For Class A, AA, AAA, and Unlimited license applications, financial statements must be accompanied by an independent auditor's report or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. ()

f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. ()

g. Applicants requesting a licensing class higher than that for which the applicant is currently licensed must provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed. ()

02. Application for Change in Licensing Class. Requests for a licensing class higher than that for which the applicant is currently licensed must be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules are valid for a period of twelve (12) months from the date of issuance. ()

03. Extension of Time to File Financial Statement. The administrator may grant an extension of time

to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant’s fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application must be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license is valid for a period of twelve (12) months from the date of the issuance of the renewal license. ()

04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals must be conducted by a disinterested person or firm established and qualified to perform such services. ()

05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant’s qualifications. ()

111. FINANCIAL REQUIREMENTS.

The financial requirements for obtaining and maintaining a heavy, highway, building, and specialty construction license under this act must be as described in this section for each respective class. An applicant requesting a license for each class identified in this section must have a minimum net worth and possess an amount of working capital as provided in Table 111.01:

TABLE 111.01 – FINANCIAL REQUIREMENTS		
LICENSE CLASS	NET WORTH	WORKING CAPITAL
Unlimited	\$1,000,000	\$600,000
AAA	\$600,000	\$200,000
AA	\$450,000	\$150,000
A	\$300,000	\$100,000
B	\$150,000	\$50,000
CC	\$75,000	\$25,000
C	\$25,000	\$7,500
D	\$10,000	\$3,000

()

112. EXAMINATION.

The Board approves all subject areas and topics to be included in the public works contractor license examination.

()

01. Frequency of Conducting of Examinations.

()

a. Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in the Division’s three (3) office locations. ()

b. The applicant will be notified in writing of the date, time, and location at which the examinations will be given, following approval of the application. ()

02. Professional Testing Services. In lieu of the administration by the administrator of the examination for licenses, the administrator may contract with a professional testing service to administer the examination, and require all license applicants, with the exception of Class D applicants, to pay to the testing service the fee that they have set for the examination, to take such examination at the time set by such service, and provide the Division acceptable verification of the test score. In such instances, the Division may charge and retain the

application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant's application. ()

a. Class D applicants will utilize the existing in-house, open-book examination. ()

b. Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service. ()

03. Required Score. The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license. ()

04. Failed Examinations. ()

a. An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication. ()

b. Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee. ()

c. Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination. ()

113. INDIVIDUAL QUALIFIED BY EXAMINATION.

01. Written Notice. Written notice, required by Section 54-1910(a), Idaho Code, that the Qualified Individual of a public works contractor has ceased to be connected with the contractor must be provided to the Administrator on forms prescribed by the Administrator indicating the date the Qualified Individual ceased to be connected with the contractor. ()

02. Reasonable Length of Time. If a public works contractor notifies the Administrator that the contractor's Qualified Individual has ceased to be connected with the contractor, the contractor's license will remain in force for ninety (90) days from the date of the notice. ()

114. -- 198. (RESERVED)

199. LIMITATIONS.

01. One License. A licensee will be permitted to hold only one (1) class of license at any given time. ()

02. Previous License Null and Void. When a licensee of one class has been issued a license of another class, the previous license is null and void. ()

03. Total Bid Cost. The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, may not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids must include all bids of the subcontractors. Subcontractor bids are not considered a separate bid for the purposes of computing the bid on a given public works project. ()

04. Two or More Licensees. Two (2) or more licensees of the same class or of different classes are not permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. ()

05. Type 4 License Holder. The holder of a license for Type 4, Specialty Construction, are entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to

be performed by him on such project is covered by a category or categories listed on the license held by the licensee. ()

200. TYPE 4-SPECIALTY CONSTRUCTION CATEGORIES.

A license for Type 4-Specialty Construction must list one (1) or more specialty construction categories to which the license is restricted. Categories and their definitions are: ()

01. 01107 Engineering. A specialty contractor whose primary business includes providing engineering and design services such as civil, electrical, mechanical, and structural. ()

02. 01541 Scaffolding and Shoring. A specialty contractor whose primary business is the installation of any temporary elevated platform and its supporting structure used for supporting workmen or materials or both, and props or posts of timber or other material in compression used for the temporary support of excavations, formwork or unsafe structures; the process of erecting shoring. ()

03. 01542 Craning and Erection. A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position. ()

04. 01550 Construction Zone Traffic Control. A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances. ()

05. 01570 Temporary Erosion and Sediment Controls. A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. ()

06. 02110 Excavation, Removal and Handling of Hazardous Material. A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required. ()

07. 02115 Removal of Underground Storage Tanks. A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents. ()

08. 02195 Environmental Remediation, Restoration and Soil Stabilization. A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites. ()

09. 02210 Drilling. A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, case, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation rotary methods or jetting. ()

10. 02220 Demolition. A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public. ()

11. 02230 Site Clearing. A specialty contractor whose primary business includes the ability and expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in preparation for excavation of a construction site or other uses. ()

12. 02231 Logging. A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations. ()

13. **02232 Tree Removal and Trimming.** A specialty contractor whose primary business includes pruning, removal, or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. ()
14. **02240 Dewatering and Subsurface Drainage.** A specialty contractor whose primary business is to control the level and flow of subsurface water. ()
15. **02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls.** A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls. ()
16. **02265 Slurry Walls.** A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete. ()
17. **02270 Rockfall Mitigation and High Scaling.** A specialty contractor whose primary business is rockfall mitigation and high scaling. ()
18. **02310 Excavation and Grading.** A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that are used to dig, move and place that material forming the earth's surface. ()
19. **02312 Dust Control, Dust Abatement and Dust Oiling.** A specialty contractor whose primary business is dust control, dust abatement and dust oiling. ()
20. **02317 Rock Trenching.** A specialty contractor whose primary business is rock trenching. ()
21. **02318 Hauling.** A specialty contractor whose primary business includes the ability and expertise to obtain or move specified materials by transportation in a vehicle. ()
22. **02319 Blasting.** A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliamperere meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. ()
23. **02325 Dredging.** A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment. ()
24. **02404 Horizontal and Directional Earth Boring, Trenching and Tunneling.** A specialty contractor whose primary business and expertise includes boring, trenching or tunneling. ()
25. **02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers.** A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers. ()
26. **02500 Utilities.** A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. ()

27. 02520 Well Drilling. A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub-surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps. ()

28. 02580 Installation of Communication Towers. A specialty contractor whose primary business and expertise is the installation of communication towers. ()

29. 02660 Membrane Liners for Ponds and Reservoirs. A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids. ()

30. 02720 Crushing. A specialty contractor whose primary business includes the ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification. ()

31. 02740 Asphalt Paving. A specialty contractor whose primary business includes the installation of aggregate base course, cement treated base, bitumen treated base, asphalt concrete and the application of asphalt surfacing and surface repairs of streets, intersections, driveways, parking lots, tennis courts, running tracks, play areas; including the application or installation of primer coat, asphalt binder course, tack coating, seal coating and chips, slurry seal and chips, flush or flog coats, asphalt curbs, concrete bumper curbs, redwood headers, asphalt surface binder emulsion, asbestos and sand and acrylic color systems. (Synthetic and athletic surfacing are category 02790 Athletic and Recreational Surfaces.) Also includes crack sealing, asphalt maintenance repair and soil pulverization. ()

32. 02761 Traffic Marking and Striping. A specialty contractor whose primary business includes the art, ability and expertise to apply markings to streets, roadways, or parking surfaces pre-designed for the use of parking or passage of vehicles by the application of directional lines, buttons, markers, and signs made of but not limited to plastic, paint, epoxies and rubber, in such manner as to provide for the channeling and controlling of the traffic flow. Also includes temporary striping. ()

33. 02785 Asphalt Maintenance and Repair, Seal Coating, Crack Sealing and Chip Sealing. A specialty contractor whose primary business is asphalt maintenance and repair, seal coating, crack sealing and chip sealing. ()

34. 02790 Athletic and Recreational Surfaces. A specialty contractor whose primary business is the installation of specialty surfaces including but not limited to non-wood athletic floors, tennis courts, running tracks and artificial turf. This would include any subsurface preparation such as leveling, excavation, fill and compaction or grading. The application of surfacing, mixing, spreading or placing of emulsions, binders, sand and acrylic color systems is also included along with the installation of modular, plastic athletic floors such as “Sport Court” type floors. This category does not include any type of structure required for the installation of these surfaces. ()

35. 02810 Sprinkler and Irrigation Systems. A specialty contractor whose primary business includes the installation of types and kinds of water distribution systems for complete artificial water or irrigation of gardens, lawns, shrubs, vines, bushes, trees and other vegetation, including the trenching, excavating and backfilling in connection therewith. (Low voltage only.) ()

36. 02820 Fencing. A specialty contractor whose primary business includes the installation and repair of any type of fencing. ()

37. 02840 Guardrails and Safety Barriers. A specialty contractor whose primary business includes the installation of guardrails and safety barriers (including cattle guards). ()

38. 02850 Bridges and Structures. A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts. ()

39. 02855 Bridge Crossings and Box Culverts. A specialty contractor whose primary business is the installation or construction, or both, of any bridge or crossing structure shorter than twenty (20) feet measured on the centerline of the roadway or trail. ()

40. 02880 Installation of School Playground Equipment. A specialty contractor whose primary business is the installation of school playground equipment. ()

41. 02890 Traffic Signs and Signals. A specialty contractor whose primary business includes the art, ability, knowledge, experience, science and expertise to fabricate, install and erect signs, including electrical signs and including the wiring of such signs. A licensed electrician must perform all the electrical work. ()

42. 02900 Landscaping, Seeding and Mulching. A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith. ()

43. 02910 Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control. A specialty contractor whose primary business is slope stabilization, including necessary tillage and plant bed preparation using hydroseeding, hydromulching and native plant revegetation for erosion control. ()

44. 02935 Landscape Maintenance. A specialty contractor whose primary business and expertise includes the maintenance of existing lawns, gardens, and sprinkler systems. This would include mowing, weeding, fertilization, pest control and minor repair or relocation of sprinkler systems. ()

45. 02937 Pest Control, Sterilization and Herbicide Applications. A specialty contractor whose primary business includes the mixing, transportation and application of fertilizers, pesticides, herbicides, and sterilization chemicals for the control of insects, pests and weeds. ()

46. 02955 Pipeline Cleaning, Sealing, Lining and Bursting. A specialty contractor whose primary business and expertise includes cleaning, sealing, lining and bursting pipelines. ()

47. 02965 Cold Milling, Rumble Strip Milling, Asphalt Reclaiming and Pavement Surface Grinding. A specialty contractor whose primary business includes cold milling, rumble strip milling, asphalt reclaiming and pavement surface grinding. ()

48. 02990 Structural Moving. A specialty contractor whose primary business includes but is not limited to raising, lowering, cribbing, underpinning and moving of buildings or structures. This does not include the alterations, additions, repairs or rehabilitation of the retained portion of the structure. ()

49. 03200 Concrete Reinforcing Rebar Installation. A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel mesh or steel reinforcing bars or rods of any profile, perimeter or cross-section that are or may be used to reinforce concrete. ()

50. 03300 Concrete. A specialty contractor whose primary business includes the ability and expertise to process, proportion, batch and mix aggregates consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or to do any part or any combination of any thereof, in such a manner that acceptable mass, pavement, flat and other cement and concrete work can be poured, placed, finished and installed, including the placing, forming and setting of screeds for pavement or flat work. Also includes concrete sidewalks, driveways, curbs and gutters. ()

51. 03370 Specially Placed Concrete, Concrete Pumping and Shotcreting. A specialty contractor whose primary business includes the ability and equipment necessary to deliver and install concrete, and similar materials to their final destination in buildings and structures. ()

52. 03380 Post-Tensioned Concrete Structures or Structural Members. A specialty contractor whose primary business is the post-tensioning of structural elements using sleeved tendons of high-strength prestressing steel. ()

53. 03500 Gypcrete. A specialty contractor whose primary business includes the ability and expertise to mix and apply gypsum concrete. ()

54. 03600 Concrete Grouting. A specialty contractor whose primary business includes the ability and the equipment necessary to place concrete grouts. Concrete grouts are thin, fluid, shrink resistant, mortar-like materials used for filling joints and cavities and setting and anchoring items in masonry and concrete. ()

55. 03650 Pressure Grouting and Slab Jacking. A specialty contractor whose primary business includes pressure foundation grouting and jacking and the injection of concrete or mortar into foundations for stabilization. ()

56. 03900 Concrete Demolition, Concrete Sawing and Cutting, Core Drilling, Joint Sealing and Hydrocutting. A specialty contractor whose primary business includes concrete cutting, drilling, sawing, cracking, breaking, chipping or removal of concrete. This category also includes the caulking or sealing of joints or cracks caused by such operations. ()

57. 04000 Masonry. A specialty contractor whose primary business includes the installation with or without the use of mortar or adhesives of brick, concrete block, adobe units, gypsum partition tile, pumice block or other lightweight and facsimile units and products common to the masonry industry. ()

58. 04900 Chemical Cleaning and Masonry Restoration. A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of chemicals, pressure washing, sand blasting or other methods. ()

59. 05090 Welding. A specialty contractor whose primary business causes metal to become permanently attached, joined and fabricated by the use of gases or electrical energy, developing sufficient heat to create molten metal, fusing the elements together. ()

60. 05100 Steel Fabrication, Erection and Installation. A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel reinforcing bars, erect structural steel shapes and plates, of any profile, perimeter or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected. ()

61. 05700 Ornamental Metals. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to assemble, case, cut, shape, stamp, forage, fabricate and install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monel metal, stainless steel, and any other metal or any combination thereof, as have been or are now used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner that, under an agreed specification, acceptable ornamental metal work can be executed, fabricated and installed; but does not include the work of a sheet metal contractor. ()

62. 05830 Bridge Expansion Joints and Repair. A specialty contractor whose primary business and expertise is the repair of bridge expansion joints. ()

63. 06100 Carpentry, Framing and Remodeling. A specialty contractor whose primary business includes the placing and erection of floor systems, walls, sheeting, siding, trusses, roof decking of either wood or light gauge metal framing. This contractor also installs finish items such as running trim, sashes, doors, casing, cabinets, cases and other pre-manufactured finished items. ()

64. 06130 Log and Heavy Timber Construction. A specialty contractor whose primary business includes the ability and expertise to build and erect log or heavy timber structures. ()

65. 06139 Docks - Log and Wood Structures. A specialty contractor whose primary business includes the ability and expertise to construct log and wood structured docks. ()

66. 06200 Finish Carpentry and Millwork. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to cut, surface, join, stick, glue and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as millwork and fixtures, can be executed; including the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such millwork and fixtures or to do any part or any combination of any thereof. ()

67. 07100 Waterproofing and Dampproofing. A specialty contractor whose primary business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing. ()

68. 07200 Thermal Insulation. A specialty contractor whose primary business includes the installation of any insulating media in buildings and structures for the purpose of temperature control. ()

69. 07240 Stucco and Exterior Insulation Finish Systems (EIFS). A specialty contractor whose primary business includes the ability and expertise to install Stucco and EIFS. ()

70. 07400 Roofing and Siding. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and to bring such surfaces to a condition where asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate and any other material or materials or any combination thereof, that use and custom has established as usable for, or which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roof and surfaces; but does not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions. ()

71. 07450 Siding and Decking. A specialty contractor whose primary business includes the application or installation of exterior siding, decking or gutters including wood, wood products, vinyl, aluminum and metal to new or existing buildings and includes wooden decks and related handrails. (This category does not include the construction or installation of covers or enclosures of any kind.) ()

72. 07700 Sheet Metal Flashings, Roof Specialties and Accessories. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to select, cut, shape, fabricate and install sheet metal such as cornices, flashings, gutters, leaders, rainwater down spouts, pans, etc., or to do any part or any combination thereof, in such a manner that sheet metal work can be executed, fabricated and installed. ()

73. 07800 Sprayed on Fireproofing. A specialty contractor whose primary business includes the mixing, transportation, and installation of fire proofing materials for buildings and structures. ()

74. 07920 Caulking and Joint Sealants. A specialty contractor whose primary business includes the ability and expertise for installation of elastomeric and rigid joint sealants, caulking compounds, and related accessories. ()

75. 08100 Doors, Gates, Specialty Doors and Activating Devices. A specialty contractor whose primary business is the installation, modification or repair of residential, commercial or industrial doors and door hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category. ()

76. 08500 Windows, Glass and Glazing. A specialty contractor whose primary business includes the art, ability, experience, knowledge and expertise to select, cut, assemble and install all makes and kinds of glass and glass work, and execute the glazing of frames, panels, sash and doors, in such a manner that under an agreed

specification, acceptable glass work and glazing can be executed, fabricated and installed, and may include the fabrication or installation in any building or structure of frames, glazed-in panels, sash or doors, upon or within which such frames, glazed-in panels, sash or doors, such glass work or glazing has been or can be executed or installed.

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77. 09110 Steel Stud Framing. A specialty contractor whose primary business includes the ability and expertise to build or assemble steel stud framing systems.

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78. 09200 Lath and Plaster. A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick-lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing.

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79. 09250 Drywall. A specialty contractor whose primary business includes the ability and expertise to install unfinished and prefinished gypsum board on wood and metal framing and on solid substates; gypsum and cementitious backing board for other finishes; accessories and trim; and joint taping and finishing.

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80. 09300 Tile and Terrazzo. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and bring such surfaces to a condition where acceptable work can be executed and fabricated thereon by the setting of chips or marble, stone, tile or other material in a pattern with the use of cement, and to grind or polish the same.

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81. 09500 Acoustical Treatment. A specialty contractor whose primary business includes the installation, application, alteration and repair of all types of acoustical systems, to include acoustical ceilings, wall panels, sound control blocks and curtains, hangers, clips, inserts, nails, staples, related hardware and adhesive, lightweight framing systems and related accessories (electrical excluded), installation and repair of gypsum wall board, painting, accessories, taping and texturing.

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82. 09600 Flooring. A specialty contractor whose primary business includes the ability and expertise to examine surfaces, specify and execute the preliminary and preparatory work necessary for the installation of flooring, wherever installed, including wood floors and flooring (including the selection, cutting, laying, finishing, repairing, scraping, sanding, filling, staining, shellacking and waxing) and all flooring of any nature either developed as or established through custom and usage as flooring.

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83. 09680 Floor Covering and Carpeting. A specialty contractor whose primary business includes the installation, replacement and repair of floor covering materials, including laminates and including preparation of surface to be covered, using tools and accessories and industry accepted procedures of the craft.

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84. 09900 Painting and Decorating. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where acceptable work can be executed thereon with the use of paints, varnishes, shellacs, stains, waxes, paper, oilcloth, fabrics, plastics and any other vehicles, mediums and materials that may be mixed, used and applied to the surface of buildings, and the appurtenances thereto, of every description in their natural condition or constructed of any material or materials whatsoever that can be painted or hung as are by custom and usage accepted in the building and construction industry as painting and decorating.

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85. 09950 Sand Blasting. A specialty contractor whose primary business includes the ability and expertise to sand blast surfaces through the use of equipment designed to clean, grind, cut or decorate surfaces with a blast of sand or other abrasive applied to such surfaces with steam or compressed air.

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86. 09960 Specialty Coatings. A specialty contractor whose primary business includes the surface preparation and installation of specialty coatings.

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87. 10150 Institutional Equipment. A specialty contractor whose primary business includes the

installation, maintenance and repair of booths, shelves, laboratory equipment, food service equipment, toilet partitions, and such other equipment and materials as are by custom and usage accepted in the construction industry as institutional equipment. ()

88. 10270 Raised Access Flooring. A specialty contractor whose primary business includes the installation of wood or metal-framed elevated computer-flooring systems. This does not include the structural floor on which the computer floor is supported or mezzanines. ()

89. 10445 Non-Electrical Signs. A specialty contractor whose primary business includes the installation of all types of non-electrical signs, including but not limited to traffic delineators, mile post markers, post or pole supported signs, signs attached to structures, painted wall signs, and modifications to existing signs. ()

90. 11001 Specialty Machinery and Equipment Installation and Servicing. A specialty contractor whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings or roof structures for this equipment. ()

91. 11140 Petroleum and Vehicle Service Equipment, Installation and Repair. A specialty contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank-related piping, leak line detectors, vapor recovery lines, vapor probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations. ()

92. 11200 Water/Wastewater and Chemical Treatment. A specialty contractor whose primary business is the supply, installation and operational startup of equipment and chemicals for chemical treatment of water, wastewater or other liquid systems. ()

93. 11485 Climbing Wall Structures and Products. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and install climbing wall structures and equipment. This does not include concrete foundations or buildings in which the climbing walls may be supported or housed. ()

94. 12011 Prefabricated Equipment and Furnishings. A specialty contractor whose primary business includes the installation of prefabricated products or equipment including but not limited to the following: theater stage equipment, school classroom equipment, bleachers or seats, store fixtures, display cases, toilet or shower room partitions or accessories, closet systems, dust collecting systems, appliances, bus stop shelters, telephone booths, sound or clean rooms, refrigerated boxes, office furniture, all types of pre-finished, pre-wired components, detention equipment and other such equipment and materials as are by custom and usage accepted in the construction industry as prefabricated equipment. ()

95. 12490 Window, Wall Coverings, Drapes and Blinds. A specialty contractor whose primary business includes the installation of decorative, architectural or functional window glass treatments or covering products or treatments for temperature control or as a screening device. ()

96. 13110 Cathodic Protection. A specialty contractor whose primary business is the prevention of corrosion by using special cathodes and anodes to circumvent corrosive damage by electric current. ()

97. 13121 Pre-Manufactured Components and Modular Structures. A specialty contractor whose primary business includes the moving, setup, alteration or repair of pre-manufactured components, houses or similar modular structures. ()

98. 13125 Pre-Engineered Building Kits. A specialty contractor whose primary business includes the assembly of pre-engineered building kits or structures obtained from a single source. This category is limited to assembly only of pre-engineered metal buildings, pole buildings, sunrooms, geodesic structures, aluminum domes, air supported structures, manufactured built greenhouses or similar structures. This does not include any other

categories such as concrete foundations, carpentry, plumbing, heating or cooling, or electrical work. ()

99. 13150 Swimming Pools and Spas. A specialty contractor whose primary business includes the ability to construct swimming pools, spas or hot tubs including excavation and backfill of material, installation of concrete, Gunitite, tile, pavers or other special materials used in pool construction. This category also includes the installation of heating and filtration equipment, using those trades or skills necessary for installing the equipment, which may require other licenses including electrical and plumbing. ()

100. 13165 Aquatic Recreational Equipment. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and erect water slides and water park equipment and structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating, cooling or electrical work. ()

101. 13201 Circular Prestressed Concrete Storage Tanks (Liquid and Bulk). A specialty contractor whose primary business is the construction of circular prestressed concrete structures post-tensioned with circumferential tendons or wrapped circular prestressing. ()

102. 13280 Hazardous Material Remediation. A specialty contractor whose primary business includes the ability and expertise to safely encapsulate, remove, handle or dispose of hazardous materials within buildings, including but not limited to asbestos, lead and chemicals. Contractors must be properly licensed and certified. ()

103. 13290 Radon Mitigation. A specialty contractor whose primary business and expertise includes the detection and mitigation of Radon gas. ()

104. 13800 Instrumentation and Controls. A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors' controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment. ()

105. 13850 Alarm Systems. A specialty contractor whose primary business includes the installation, alteration and repair of communication and alarm systems, including the mechanical apparatus, devices, piping and equipment appurtenant thereto (except electrical). ()

106. 13930 Fire Suppression Systems (Wet and Dry-Pipe Sprinklers). A specialty contractor whose primary business includes the ability and expertise to lay out, fabricate and install approved types of Wet-Pipe and Dry-Pipe fire suppression systems, charged with water, including all mechanical apparatus, devices, piping and equipment appurtenant thereto. Licensure with State Fire Marshal is required. ()

107. 13970 Fire Extinguisher and Fire Suppression Systems. A specialty contractor whose primary business is the installation of pre-engineered or pre-manufactured fixed chemical extinguishing systems primarily used for protecting kitchen-cooking equipment and electrical devices. Contractor also furnishes, installs and maintains portable fire extinguishers. ()

108. 14200 Elevators, Lifts and Hoists. A specialty contractor whose primary business includes the ability to safely and efficiently install, service and repair all elevators, lifts, hoists, including the fabrication, erection and installation of sheave beams, sheave motors, cable and wire rope, guides, cabs, counterweights, doors, sidewalk elevators, automatic and manual controls, signal systems and other devices, apparatus and equipment appurtenant to the installation. ()

109. 15100 Pipe Fitter and Process Piping. A specialty contractor whose primary business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories. ()

110. 15400 Plumbing. A specialty contractor whose primary business includes the ability to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe, pure and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, cleaning, and to cleanse all waste receptacles and like means for the reception, speedy and complete removal from the premises of all fluid

and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, including a safe and adequate supply of gases for lighting, heating, and industrial purposes. (Licensure with Division of Building Safety is required). ()

111. 15510 Boiler and Steam Fitting. A specialty contractor who installs, services and repairs boilers and associated steam distribution systems. This category is limited to work not requiring a heating, ventilating, and air conditioning (HVAC) license issued by the Division of Building Safety. ()

112. 15550 Chimney Repair. A specialty contractor whose primary business includes the cleaning or repair of multi-type chimneys, flues or emission control devices used to conduct smoke and gases of combustion from above a fire to the outside area. ()

113. 15600 Refrigeration. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to construct, erect, install, maintain, service and repair devices, machinery and units for the control of air temperatures below fifty (50) degrees Fahrenheit in refrigerators, refrigerator rooms, and insulated refrigerated spaces and the construction, erection, fabrication and installation of such refrigerators, refrigerator rooms, and insulated refrigerator spaces, temperature insulation, air conditioning units, ducts, blowers, registers, humidity and thermostatic controls of any part or any combination thereof, in such a manner that, under an agreed specification acceptable refrigeration plants and units can be executed, fabricated, installed, maintained, serviced and repaired, but does not include those contractors who install gas fuel or electric power services for such refrigerator plants or other units. ()

114. 15700 Heating, Ventilation, and Air Conditioning (HVAC). A specialty contractor whose primary business includes the installation, alteration and repair of heating, ventilating, and air conditioning (HVAC) systems. Licensure by the Division of Building Safety as an HVAC contractor is required. ()

115. 15950 Testing and Balancing of Systems. A specialty contractor whose primary business includes the installation of devices and performs any work related to providing for a specified flow of air or water in all types of heating, cooling or piping systems. ()

116. 16000 Electrical. A contractor engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing electrical apparatus to be operated by such current. A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118 of these rules. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. ()

117. 16700 Communication. A specialty contractor whose primary business includes the installation, alteration or repair of communication systems (voice, data, television, microwave, and other communication systems). ()

118. 16800 Limited Electrical Contractor. A contractor engaging in, conducting, or carrying on the business of installing, altering, or repairing special classes of electrical wiring, apparatus, or equipment. A contractor in this category must be an electrical specialty contractor, licensed pursuant to Section 54-1007(1), Idaho Code, and may perform only that work included within the specialty license. Electrical specialty categories include, but are not limited to: ()

- a. **Elevator, Dumbwaiter, Escalator or Moving-walk Electrical;** ()
- b. **Sign Electrical;** ()
- c. **Manufacturing or Assembling Equipment;** ()
- d. **Limited Energy Electrical License (low voltage);** ()
- e. **Irrigation Sprinkler Electrical;** ()
- f. **Well Driller and Water Pump Installer Electrical; and** ()

g. Refrigeration, Heating and Air Conditioning Electrical Installer. ()

119. 18100 Golf Course Construction. A specialty contractor whose primary business includes the construction, modification, and maintenance of golf courses. This includes clearing, excavation, grading, landscaping, sprinkler systems and associated work. This does not include the construction of buildings or structures such as clubhouses, maintenance or storage sheds. ()

120. 18200 Underwater Installation and Diving. A specialty contractor whose primary business is marine construction under and above water. ()

121. 18300 Develop Gas and Oil Wells. A specialty contractor whose primary business includes the ability and expertise to perform oil well drilling and other oil field related specialty work. This does not include water well drilling. ()

122. 18400 Nonstructural Restoration After Fire or Flood. A specialty contractor whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters. ()

123. 18600 Building Cleaning and Maintenance. A specialty contractor whose primary business includes the cleaning and maintenance of a structure designed for the shelter, enclosure and support of persons, chattels, personal and moveable property of any kind. ()

124. 18700 Snow Removal. A specialty contractor whose primary business includes the plowing, removal or disposal of snow from roads, streets, parking lots and other areas of the public rights-of-way. ()

125. 18800 Roadway Cleaning, Sweeping and Mowing. A specialty contractor whose primary business includes the clearing of trash and debris by manual or automated means from public thoroughfares. This category also includes cutting or mowing of grasses, plants, or weeds from public rights-of-way. ()

201. FEES.

01. Public Works Contractor Licensing Fees. In accordance with Section 54-1904, Idaho Code, fees for each class of public works contractor licenses are as provided below.

TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES		
License Class	Initial Fee	Renewal Fee
Unlimited	\$550	\$440
AAA	\$450	\$360
AA	\$350	\$280
A	\$250	\$160
B	\$150	\$120
CC	\$125	\$100
C	\$100	\$80
D	\$50	\$40

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02. Construction Manager Licensing Fees. Fees for construction manager licenses are, in accordance with Section 54-4510, Idaho Code, as follows: ()

TABLE 201.02 – CONSTRUCTION MANAGER LICENSING FEES	
License Activity	Fee
Initial Licensing	\$200
License Renewal	\$200
Inactive License	\$50
License Reinstatement	\$200
Exam Administration	Fee established by testing agency
Certificate of Authority	\$100

03. Payment of Fees. Fees are payable to “Division of Building Safety -- Public Works Contractors.” ()

04. Application Filed With Fees. An application filed without the listed fees is deemed incomplete and returned to the applicant. ()

202. COMPLAINTS.

Complaints alleging a violation of Title 54, Chapter 19, Idaho Code, or these rules must be in writing and filed with the administrator. All complaints must be verified and submitted on forms provided by the Board. ()

203. -- 299. (RESERVED)

300. BUSINESS ORGANIZATION -- CHANGES IN ORGANIZATION OR STRUCTURE -- MEMBERS OF JOINT VENTURES - CHANGES FOR REASONS OTHER THAN DEATH.

A licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a partnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The administrator may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed within thirty (30) days after such change occurs. Each participant in a joint venture must be licensed at the time of bidding. Where there is a change in the surviving members of a licensed partnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding member or members are required to file an application for an original license. ()

301. -- 399. (RESERVED)

400. CERTIFICATES -- DISPLAY AND POSSESSION.

Licensee must sign and display the license certificate issued to him in his main office or chief place of business and must furnish satisfactory evidence of the possession of a current license upon the administrator’s demand. ()

401. LICENSE NUMBER ON BIDS.

Licensee must place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho. ()

402. CHANGES IN LICENSE CERTIFICATE.

When any change in the license certificate has been approved by the Board, a new license certificate will be issued. ()

403. -- 501. (RESERVED)

502. TECHNICALITIES OF FORM.

The administrator may, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances. ()

503. HEARINGS.

The general procedure for hearings before the administrator and the Board is as prescribed in these rules and Title 67, Chapter 52, Idaho Code. ()

01. Notes. Any interested persons may request, in writing, five (5) days before any scheduled hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes to be transcribed at his own expense. ()

02. Procedure. The Board reserves the right to amend, modify or repeal all or any part of the above procedure or to dispense with any part thereof, at any hearing before the Board, as it may deem necessary in the circumstances. ()

504. -- 599. (RESERVED)

600. CONSTRUCTION MANAGER EXAMINATIONS.

If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) is required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year before taking the examination again. The applicant must then take and pass all sections of the examination (receiving no credit for sections successfully completed during the previous year). ()

601. -- 999. (RESERVED)

**24.39.70 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION,
AND AIR CONDITIONING SYSTEMS**

000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Sections 54-5001, 54-5004, 54-5005, 54-5006, 54-5007, 54-5010, 54-5016, 67-2604, 67-2614, 67-9406 and 67-9409, Idaho Code. ()

001. SCOPE.

The rules establish the minimum standards for heating, ventilation, and air conditioning (HVAC) installation practice, certification, registration, and educational programs. ()

002. -- 099. (RESERVED)

100. CERTIFICATES OF COMPETENCY AND REGISTRATION.

01. Apprentice and Specialty Apprentice Registration and Renewal. To register or renew an apprentice or specialty apprentice registration, a person shall comply with Section 54-5012(4), Idaho Code. A specialty apprentice's scope of work is limited as set forth in Rule 100.04.a. ()

02. Journeyman Certificate of Competency. An applicant must pass an examination designated by the Board and either (a) submit evidence of a minimum of eight thousand (8,000) hours of work experience as an apprentice making HVAC installations in accordance with the requirements of the jurisdiction in which the applicant obtained the experience and satisfactory completion of 576 hours of a board-approved course of instruction, or (b) submit proof of sixteen thousand (16,000) hours of HVAC experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience. ()

a. Examination. An applicant may sit for the exam after showing proof of completion of either 576 hours of board-approved course of instruction or 16,000 hours of HVAC experience. ()

03. Contractor and Specialty Contractor Certificate of Competency. An applicant must successfully pass an examination designated by the Board and provide a compliance bond in the amount of two thousand dollars (\$2,000) which is effective for the duration of the certificate period. The specialty contractor's scope of work is limited as set forth in Rule 100.04.a. ()

04. Specialty Journeyman Certificate of Competency. An applicant must submit evidence of a minimum of two thousand (2,000) hours of specialty-related experience in accordance with the requirements of the jurisdiction in which the applicant obtained the experience, and either (a) pass an examination designated by the Board, or (b) submit evidence of satisfactory completion of a minimum of sixty (60) hours of education in fuel gas code and piping installation methods. ()

a. Permitted Scope of Work. Permitted to install hearth appliances, and non-duct connected oil furnaces, the associated fuel gas piping, and venting dedicated exclusively thereto. Does not include any plumbing, electrical or duct work. ()

101. -- 299. (RESERVED)

300. CIVIL PENALTIES.

The acts described in this section subject the violator to a civil penalty not to exceed one thousand dollars (\$1,000) for each separate count or offense. ()

01. Statute or Rule. Failure to comply with any provision of Chapter 50, Title 54, Idaho Code or Board Rule. ()

02. Certification or Registration. Except as provided by Section 54-5002, Idaho Code, performance of HVAC without an active certificate of competency or registration as required by Idaho Code 54-5008. ()

03. Performance Outside Scope. Performance of any HVAC installation, alteration, or maintenance by a specialty contractor or specialty journeyman outside the scope of the specialty certificate of competency. ()

04. Employees. Knowing employment of a person who does not hold an active certificate of competency or registration as required by Idaho Code 54-5008 and 54-5009 to perform HVAC work. ()

05. Supervision. Working as an apprentice or specialty apprentice without the required journeyman

supervision or employing an apprentice or specialty apprentice without providing the required journeyman supervision. ()

06. Fees, Permits, and Inspections. Failure to obtain a required permit, pay applicable fees, properly post a permit, or request an inspection of any installation, alteration, improvement, or extension of any piping, venting, ductwork, appliances and appurtenances in connection with any HVAC system or subsystem of such. ()

07. Corrections. Failure to make corrections in the time allotted in the notice on any HVAC installation. ()

08. Misrepresentation of Fees. Misrepresentation of the permit or inspection fees to the customer. ()

09. Advertising. Advertising to engage in the business, trade, practice, or work of a HVAC contractor as defined in Section 54-5009, Idaho Code, without holding a current and valid HVAC contractor certificate of competency issued by the Division or advertising without including the contractor certificate of competency number in the advertisement. Advertising includes, but is not limited to: newspaper, telephone directory, community flier ads or notices; telephone, television, radio, internet, or door-to-door solicitations. ()

10. Order. Failure to comply with any lawful order of the Board or Division administrator. ()

301. -- 499. (RESERVED)

500. PERMITS AND INSPECTIONS.

01. Permits. ()

a. Permits will be furnished to a HVAC contractor upon submission of a complete application and proper permit fee. For commercial or industrial HVAC work, a verified copy of bid acceptance must be submitted with the application. Permit serial numbers must be registered in the name of the HVAC contractor and are transferable only as provided herein these rules. ()

b. Homeowners making HVAC installations on their own premises under the provisions of Section 54-5002(1)(a), Idaho Code, must secure a HVAC permit by making application to the Division as provided by Section 54-5016, Idaho Code. ()

c. Expiration. Every permit issued shall expire and become null and void after three hundred sixty-five (365) days from the purchase date or last inspection. A permit may be renewed for an additional year upon receipt of Division approval and payment of a sixty-five dollar (\$65) renewal fee. ()

d. Transferring a Permit. A HVAC permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself and assigning all responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the HVAC work is to be performed and for which the permit was issued, or such owner’s designated legal agent in cases where the property owner has terminated his legal relationship with the HVAC contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit must be paid to the Division. ()

02. Permit Fee Schedule.

a. Residential. Includes all buildings with HVAC systems being installed on each property. The following permit fees apply to all residential single and duplex installations:

Type	Fee
Base permit	\$100

Type	Fee
Furnace, furnace-air conditioner combination, heat pump, air conditioner, evaporative cooler, unit heater, space heater, decorative gas-fired appliance, incinerator, boiler, pool heater, mini-split system, free-standing solid-fuel stove, factory-built gas fireplace, or similar fixture or appliance, including ducts, vents, and flues attached thereto	Plus \$30 per first fixture or appliance Plus \$15 per additional fixture or appliance
Exhaust duct or ventilation duct, including dryer vents, range hood vents, cook stove vents, bath fan vents, and similar exhaust ducts or ventilation ducts	Plus \$15 per first duct Plus \$5 per additional duct
Fuel gas piping system	Plus \$5 per appliance outlet
Hydronic systems	Plus \$5 per zone

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b. Miscellaneous. The following permit fees apply for the types of permits listed:

Type	Fee
Requested inspection	\$65 per hour or portion thereof plus costs of out-of-state travel
Mobile or manufactured home	\$65 per inspection
Modular building	
Plan check or technical service	\$65 per hour or portion thereof

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c. Other Installations Including Multifamily, Industrial and Commercial. The following fees shall apply to multifamily, industrial, and commercial installations and installations not specifically mentioned elsewhere in this Fee Schedule. The HVAC system cost is the cost to the owner of labor charges and other costs incurred to complete the installation of equipment and materials installed as part of the HVAC system. All permit fees calculated under this Subsection are based on the total HVAC system cost, which must be listed on the permit:

HVAC System Cost	Fee
Up to \$10,000	\$60 plus 2% of HVAC system cost
\$10,000 to \$100,000	\$260 plus 1% of HVAC system cost exceeding \$10,000
Over \$100,000	\$1,160 plus 5% of HVAC system cost exceeding \$100,000

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d. Additional Fees. A fee of sixty-five dollars (\$65) per hour or portion thereof shall apply to trips to inspect when the permit holder has given notice to Division that the work is ready for inspection and it is not; if the permit holder has not accurately identified the work location; if the inspector cannot gain access to make the inspection; if corrections are required by the inspector as a result of the permit holder improperly responding to a corrective notice; or when corrections have not been made in the prescribed time, unless an extension has been requested and granted.

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03. Required Inspections.

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a. Inspection Tags. Inspectors certify to the permit holder that an inspection was completed by securely attaching the inspection tag in a prominent location.

()

b. Final Inspection Tags. An inspection tag indicating a final inspection was performed is attached

when the HVAC installation as specified on the permit is complete and conforms to the requirements of the code and rules. ()

c. Inspection Tags for Unacceptable HVAC Installations. “Notice of Correction” inspection tags are attached to indicate that the HVAC installation is not acceptable and corrections are required. A reinspection and reinspection fee for such installations shall be required. ()

d. Work-in-Progress Tag. An inspection tag indicating a work-in-progress inspection was performed is attached following inspection of groundwork, rough-in work, or any portion of the installation that is to be covered or otherwise concealed before completion of the entire HVAC installation as specified on the permit. ()

501. -- 599. (RESERVED)

600. IDAHO MECHANICAL CODE.

Pursuant to Section 54-5001, Idaho Code, the Board adopts, as the Idaho Mechanical Code, the following international codes with identified amendments: ()

01. International Mechanical Code. The 2018 Edition, including appendix A, with the following amendments: ()

a. Section 109. Delete. ()

b. Section 202 Definitions. Amend the definitions provided in the code for the terms identified herein this paragraph by the following: ()

i. Add “conveyorized pizza” between the terms “standard” and “bake” in the definition of Light-duty appliances. ()

ii. Remove the following definition of “Medium-duty Cooking Appliance”: electric and gas conveyor pizza ovens. ()

02. International Fuel Gas Code. The 2018 Edition, including appendices A, B, C, and D, with the following amendments: ()

a. Section 109. Delete. ()

b. Section 406.4. Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. ()

c. Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure is required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. ()

d. Section 406.4.2. The test duration may not be less than twenty (20) minutes. ()

e. Add new section 503.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. ()

f. Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system is not required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems. ()

03. International Residential Code. The 2018 Edition, Part V (Mechanical) and Part VI (Fuel Gas) and appendices A, B, C, and D, for one (1)- and two (2)- family dwellings with the following amendments: ()

- a. Add new section M1203.1. Carbon monoxide alarms. Where work requiring a permit occurs in existing dwellings, an approved carbon monoxide alarm must be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units where a fuel fired appliance is installed. ()
- b. Section M1401.3. Add “in new, one- and two-family dwellings” between “appliances” and “shall”. ()
- c. Delete Section M1502.4.2 Duct Installation and replace with the following: Exhaust ducts must be supported at four (4) foot (1,219 mm) intervals and secured in place. The insert end of the duct must extend into the adjoining duct or fitting in the direction of airflow. Ducts must not be joined with screws or similar fasteners that protrude into the inside of the duct. ()
- d. Section M1601.1. Add “in new, one- and two-family dwellings” between “equipment” and “shall”. ()
- e. Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. ()
- f. Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (one hundred forty (140) kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (seventy (70) kPa gauge), not less than sixty (60) psig (four hundred twenty (420) kPa gauge) test pressure is required. For systems over ten (10) psig (seventy (70) kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. ()
- g. Section G2417.4.2 (406.4.2). The test duration may not be less than twenty (20) minutes. ()
- h. Add new section G2427.4.1.2. Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. ()

601. -- 999. (RESERVED)

24.39.90 – RULES GOVERNING THE DAMAGE PREVENTION BOARD

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 55-2203, Idaho Code. ()

001. SCOPE.

These rules are applicable to underground facilities, and facility owners as established in Title 55, Chapter 22, Idaho Code. ()

002. ADMINISTRATIVE APPEALS.

01. Appeal Bond. Upon notice of the imposition of training or a civil penalty, the notified party may contest the imposition of such before the Damage Prevention Board in accordance with Section 018 of these rules. An appeal bond in the amount of two hundred dollars (\$200) must accompany the request for hearing to contest the matter. In the case of training, the Division of Building Safety will refund the bond if the contesting party appears at the hearing. In the case of a civil penalty, the Division will refund any portion of the bond not used to satisfy the penalty imposed by the Board or the entire bond if the contesting party prevails at the hearing. ()

002. -- 006. (RESERVED)

007. FUNDING OF BOARD ACTIVITIES.

Each owner of an underground facility must pay a fee of ten cents (\$.10) each time such owner receives notice from a one-number notification service as prescribed by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner is collected by the one-number notification service, and is payable to the board in accordance with the following schedule: ()

01. Fee Assessed. The fee will be assessed on an underground facility owner for each notification issued by the one-number notification service to the underground facility owner, with the one-number notification service required to submit a summary of the number of notices issued in a given month to the board no later than fifteen (15) days following the end of the month in which the notices were issued. ()

02. Payment Submission. The one-number notification service must submit payment to the board for all payments received from underground facility owners no later than seventy (70) days following the end of the month in which the notices were issued to the facility owners. In those cases where the payment from the underground facility owner is received after the seventy-day (70) period, the one-number service must include late payments in its next payment to the board. ()

03. Notices Issued. The one-number notification service must also submit a detailed list of notices issued, including the facility owner's contact information, for which payment has not been received within the seventy (70) day period following the end of the month in which the notices were issued. Such list must be updated on a monthly basis to reflect the status of all past-due payments due from underground facility owners that have not been received. ()

008. AUDIT OF ONE-NUMBER SERVICE RECORDS.

The Board has the right to review and audit the payment records of any one-number notification service relating to the collection of the fee imposed on underground facility owners. In the event the board wishes to conduct a review and/or audit of a one-number notification service, the board will provide no less than a five (5) business day advance notice of the intended action. The board may delegate any responsibilities contained herein this chapter to the Division of Building Safety. ()

009. -- 014. (RESERVED)

015. EDUCATIONAL AND TRAINING MATERIALS.

01. Approval of Training and Educational Programs. The Board approves acceptable training courses or programs and educational materials on relevant underground facility damage prevention topics pertaining to safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and appropriate procedures when encountering unmarked facilities. ()

02. Scope of Training and Educational Programs. Such training programs and educational materials must relate to various aspects of underground facility damage prevention, and contain practices, information, and standards generally accepted and recognized among stakeholders in Idaho. ()

03. Accessibility of Training and Educational Programs. The Division maintains and periodically updates a database of approved educational materials and training programs. ()

04. Purposes of Training and Educational Programs. Such programs may be used for general educational use by stakeholders or for remedial training that may be ordered by the board or the administrator pursuant to Section 55-2211, Idaho Code. ()

016. ADEQUACY OF FACILITY OWNERS LOCATING UNDERGROUND FACILITIES.
The board reviews all stakeholder complaints of violations related to underground facility line locating, as well as generally accepted practices and procedures related to locating. Stakeholders must take remedial actions to improve line-locating performance and monitor and report performance improvements to the board. ()

017. IMPROVEMENT OF TECHNOLOGY AND COMMUNICATIONS BY STAKEHOLDERS.

01. Adoption of Technology and Communications Materials. On an annual basis the board reviews and adopts any available technology and communications materials which promote effective underground facility locating. The board will make available any such appropriate technology and communications materials as it may determine to all stakeholders on the Division website. ()

02. Availability of Technology and Communications Materials. The board may request that stakeholders provide it with information or data related to procedures, methods, or technologies utilized by such stakeholders to enhance communications among other stakeholders, or that enhances underground facility locating capabilities, or enhances the stakeholder’s ability to gather and analyze data related to underground facility damage. The board will review such technologies, methods, or materials adopted by stakeholders to ensure that such use is adequate, as well as to provide stakeholders with best practices. The Division of Building Safety must maintain an approved database of such referenced stakeholder data for public viewing and analysis on its website. ()

018. DAMAGE PREVENTION COMPLAINTS.

01. Complaint Forms. Persons may submit written complaints to the administrator regarding an alleged violation of Title 55, Chapter 22, Idaho Code, on such forms as required by the Division. Notice of the complaint may be served concurrently on the alleged violator by the person submitting the complaint. Verifiable proof of such notification of a complaint provided to the alleged violator must also be provided to the administrator. ()

02. Contents. Complaints must include the name and address of the complainant and the alleged violator, the date and location of the alleged violation, as well as a complete description of the nature of the violation alleged, including whether it resulted in damage to an underground facility or an excavator downtime event. Complainants may also provide additional documentation in support of a complaint. Complaints must be accompanied by a sworn declaration from the complainant declaring that the information contained therein is true and accurate. The administrator may request additional information or documents in support of the complaint. ()

03. Complaint Procedures and Timelines. The following timelines and procedure govern the process of filing and administering complaints related to violations of Title 55, Chapter 22, Idaho Code, and the rules of the Board. ()

a. Initial Filing. Complaints must be filed with the administrator not later than thirty (30) days from the date of the alleged violation giving rise to the complaint or from the date the violation should have reasonably been discovered by the complainant, whichever is later. ()

b. Response. The administrator must notify the alleged violator of the complaint and request a response and any additional information from the alleged violator as may be necessary. The alleged violator may provide a response to the administrator within thirty (30) days from the date they are notified of the complaint by the administrator. ()

c. Recommendation. Within thirty (30) days of receipt of the response, or if no response is received,

within fifteen (15) days from the deadline for filing a response, the administrator must notify the complainant and the alleged violator of his recommended course of action. The administrator may extend the period of time in which to determine a recommended course of action, and so notify the parties, if he determines it is necessary to further review or investigate the complaint. ()

d. Contest. The alleged violator has the right to contest the imposition of a civil penalty before the damage prevention board. Notice of such contest must be provided by the alleged violator not more than thirty (30) days after receipt of the administrator's recommended course of action. Recommendations of the administrator regarding complaints may be reviewed by the board at its next regularly scheduled meeting. ()

019. CLAIMS AND REPORTS OF DAMAGE OR EXCAVATOR DOWNTIME.

01. Claims. Claims for the cost of repairs for damaged underground facilities are enforced by the affected underground facility owner in accordance with procedures as may be established by the facility owner, and in accordance with applicable law. Underground facility owners must provide notice to excavator contractors of such procedures, along with sufficient information supporting the basis for the amount of a claim within six (6) months from the date of the event giving rise to the claim or from the date the event should have reasonably been discovered by the underground facility owner, whichever is later. ()

02. Reports. Underground facility owners and excavators who observe, suffer or cause damage to an underground facility or observe, suffer or cause excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention statutes or regulations must report such information to the board on forms or by such method adopted for such by the board. Forms are available at the Division offices and electronically on the Division's website. ()

020. CIVIL PENALTIES.

The Idaho Damage Prevention Board is authorized under Section 55-2203(17), Idaho Code, to establish by administrative rule the fines to be paid for civil penalties issued for violations of Title 55, Chapter 22, Idaho Code. To the extent authorized by Section 55-2211, Idaho Code, the acts described in this section subject the violator to a civil penalty of not more than one thousand dollars (\$1,000) for a second offense and a civil penalty of not more than five thousand dollars (\$5,000) for each offense that occurs thereafter within eighteen (18) months from an earlier violation, and where facility damage has occurred. ()

01. Violations of Title 55, Chapter 22, Idaho Code. The following acts subject a person to civil penalties: ()

a. Pre-marking Excavation Site. Any person who fails to adequately pre-mark onsite the path of proposed excavation as reasonably required under the circumstances in accordance with Section 55-2205(1)(b), Idaho Code, is subject to a civil penalty. ()

b. Notice of Excavation. Any person who fails to provide notice of the scheduled commencement of excavation to any underground facility owner through a one-number notification service, or directly to a facility owner, as applicable within the prescribed time as required by Section 55-2205(1)(c), Idaho Code, is subject to a civil penalty. ()

c. One-Number Notification to Facility Owner. A one-number notification service that fails to provide notice of a scheduled excavation upon notification from an excavator is subject to a civil penalty. ()

d. Failure to Locate or Mark. An underground facility owner, owner's agent, or locator who fails to locate or mark underground facilities when responsible to do so in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein, is subject to a civil penalty. ()

e. Failure to Wait for Locate or Maintain Markings. An excavator who commences excavation prior to waiting the time prescribed by Section 55-2205(2), Idaho Code, for all known facilities to be located and marked, or an excavator who fails to maintain the markings of underground facilities previously so marked subsequent to the commencement of excavation in accordance with Section 55-2205(2), Idaho Code, is subject to a civil penalty. ()

f. Failure to Cease Excavation or Report Unidentified Facilities. An excavator who does not cease excavation in the immediate vicinity upon the discovery of underground facilities therein, whether such facilities be active or abandoned, which were not previously identified or located with reasonable accuracy, or does not notify the owner or operator of the facilities, or a one-number notification service in accordance with Section 55-2205(4), Idaho Code, is subject to a civil penalty. ()

g. Failure to Identify Facilities in Contract Documents. Project owners who fail to indicate in bid or contract documents the existence of underground facilities known by the owner to be located within the proposed area of excavation in accordance with Section 55-2207, Idaho Code, is subject to a civil penalty. ()

h. Precautions to Avoid Damage. An excavator who does not engage in any of the activities required by Section 55-2207(2), Idaho Code, or use reasonable care to avoid damage to underground facilities is subject to a civil penalty. ()

i. Reporting of Damage to Facility. An excavator who fails to report to a facility owner and a one-number notification service any contact or damage to an underground facility caused by such excavator in the course of excavation, or fails to alert an appropriate authority upon an actual breach of a facility which causes the release of gas or hazardous liquids as required by Section 55-2208(1), Idaho Code, is subject to a civil penalty. ()

j. Reporting to the Board. An excavator or underground facility owner who observes, suffers or causes damage to an underground facility or excavator downtime related to the failure of one (1) or more stakeholders to comply with the damage prevention regulations and fails to report such information to the board as required by Section 55-2208(5), Idaho Code, is subject to a civil penalty. ()

k. Failure to Participate. Any person who fails to participate or cooperate with a one-number notification service as prescribed by Section 55-2206, Idaho Code, is subject to a civil penalty. ()

l. False Notification of Emergency. Any person who provides notice of an emergency excavation when there is not an emergency as defined in Idaho Code Section 55-2202(5). ()

02. Second Offense. For the purpose of this section, a second offense is deemed to be any violation of Title 55, Chapter 22, Idaho Code, for which a civil penalty may be imposed in accordance with this section which occurs within eighteen (18) months of a previous violation of any provision. ()

03. Multiple Violations. Each day that a violation of Title 55, Chapter 22, Idaho Code, occurs for which a civil penalty may be imposed as provided herein constitutes a separate offense. ()

021. -- 999. (RESERVED)

IDAPA 24.02 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.02.01 – RULES OF THE STATE ATHLETIC COMMISSION

DOCKET NO. 24-0201-2200F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

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 Section 67-2604 and Section 54-406, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, October 11, 2022 – 10:30 a.m. (MT)
Division of Occupational and Professional Licenses Chinden Campus Building 4 – Coolwater Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

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 proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / State Athletic Commission:

IDAPA 24.02

- 24.02.01, *Rules of the State Athletic Commission.*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.02.01, Rules of the State Athletic Commission – Fees are established in accordance with Sections 54-406, 54-410, 54-416, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Professional Combatant	\$150	\$150
Amateur Combatant	\$100	\$100
Non-combatant	\$150	\$150
Matchmaker	\$250	\$250
Promoter	\$1,000	\$750
Sanction Permit	\$200	\$250
Ring Official	\$150	\$150

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 is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 5, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
11341 W. Chinden Boulevard, Building #4
Boise, ID 83714
P.O. Box 83720
Boise, ID 83720-0063
tim.frost@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF OMNIBUS FEE DOCKET NO. 24-0201-2200F
(New Chapter)**

24.02.01 – RULES OF THE STATE ATHLETIC COMMISSION

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Title 54, Chapter 4, Idaho Code. ()

001. SCOPE.

These rules are intended to provide clarification on the methods and restrictions of unarmed combat in Idaho. ()

002. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: ()

01. Association of Boxing Commissions and Combative Sports Unified Rules of Boxing Amended 2016. This document can be accessed online here: <https://www.abcboxing.com/unified-rules-boxing/>. ()

02. Association of Boxing Commissions and Combative Sports Unified Rules of Mixed Martial Arts as of 2019. This document can be accessed online here: <https://www.abcboxing.com/wp-content/uploads/2020/02/unified-rules-mma-2019.pdf>. ()

03. Athlete Guide to the 2020 Prohibited List. Published by the United States Anti-Doping Agency (USADA). Copyright date 2019. Referenced in Section 200. This document can be accessed online here: <https://www.usada.org/athletes/substances/prohibited-list/athlete-guide-to-the-2020-prohibited-list/>. ()

003. – 009. (RESERVED)

010. DEFINITIONS.

01. Combatant. Any boxer, kickboxer, martial artist, or wrestler who takes part as a competitor in an event. ()

02. Event. A program of one (1) or more unarmed combat contests or exhibitions. ()

a. An “amateur event” is an event in which the only combatants are amateur combatants. ()

b. A “professional event” is an event in which the only combatants are professional combatants. ()

c. A “pro-am” is an event in which combatants include professional combatants and amateur combatants. Professional combatants may not compete against amateur combatants in “pro-am” events. ()

03. Main Event. The headline or marquee contest or exhibition scheduled to occur at an event. ()

04. Mixed Martial Arts (MMA). A full contact sport that allows a wide variety of unarmed combat techniques from a mixture of martial arts traditions to be used in competitions. ()

05. Ticket. That document issued by the promoter allowing a person’s entrance and attendance at an event and may include that part of the ticket retained by the promoter documenting a person’s entrance to an event. ()

011. – 099. (RESERVED)

100. LICENSING.

01. Application for License. Applicants will submit a complete, Commission-approved application verified under oath, including the fee and any necessary supporting documentation to the Division for each of the following licenses: ()

a. Combatant; ()

b. Promoter; ()

c. Matchmaker; ()

d. Manager; ()

- e. Second, including a trainer; ()
- f. Ring Official; or ()
- g. Sanctioning permit for an event. ()

101. COMBATANT.

01. Age of Combatant. The Commission will review all complete applications for a combatant license so that the applicant’s experience and fitness may be considered before a license is issued, if the applicant has: ()

- a. Not reached eighteen (18) years of age; or ()
- b. Reached thirty-six (36) years of age. ()

02. Examination by Physician. Any combatant who has applied for a license or renewal of his license must be examined by a physician. The physician will establish the combatant’s physical and mental fitness for competition. ()

a. Poor Vision. The Commission will not issue a license to engage in unarmed combat to any applicant who is found to be blind in one (1) eye or whose vision in one (1) eye is so poor that a physician recommends that no license be granted. No exceptions will be made. ()

b. Cerebral Hemorrhage. Any person who has suffered a cerebral hemorrhage will not be issued a license. ()

c. Serious Head Injuries. The Commission will review the application of any person who has suffered a serious head injury before a license is issued to that person. ()

03. Additional Examination. Any licensed combatant who participates in a contest outside of the state of Idaho, or in an unsanctioned contest will need to take this examination again before being allowed to compete in Idaho. ()

04. Blood Testing. The Commission will not issue a license to or allow an athlete to compete in an event, if the athlete, within the six (6) months immediately preceding the application for licensure or the event at which the licensee wishes to compete, has tested positive for the HIV virus, Hepatitis B Surface Antigen and Hepatitis C Antibody, or illegal drugs or other substances. Upon application for a license, the athlete will submit with the application a blood test report from a blood test conducted within the six (6) months preceding the application date. The blood test must have tested the athlete for HIV virus, Hepatitis B Surface Antigen, Hepatitis C Antibody, and illegal drugs and substances. Additionally, each combatant who is to compete in an event will, at the start of the event, provide the Commission with a blood test report from a blood test conducted within the six (6) months immediately preceding the event. The Commission may, in its discretion, request additional blood tests. ()

05. Drug Abuse. The Commission will not issue a license to an athlete who has a recent history of drug abuse, without proof of participation in a recognized drug rehabilitation program and/or submission to urinalysis. ()

06. Blood Testing and Five Panel Drug Test Results. Results must show blood concentrate percentages. ()

102. ABILITY OF COMBATANT.

Before the Commission issues a combatant license to any person, the Commission must be satisfied of the person’s ability to compete. ()

01. Questioned Ability. If a combatant’s ability to perform is questioned for any reason, the

Commission may hold a hearing to determine: ()

- a. Whether the person’s license should be revoked; or ()
- b. Whether the person should be granted a license. ()

103. HONORING ACTIONS OF REGULATORY AGENCIES IN OTHER JURISDICTIONS.

The Commission may honor the following actions of agencies in other jurisdictions which regulate boxing, wrestling, martial arts, or combination thereof: ()

01. Suspension. A suspension of a combatant ordered for: ()

a. Medical Safety. The following suspensions are a guideline for ringside physicians. A ringside physician may additionally require proof of medical clearance for release of suspension:

Technical Knockout (TKO) Occurrence	Loss of Consciousness	Suspension
1	None	30 Days
1	Less than one minute	90 Days
1	Greater than one minute	180 Days
2 in 90 days	None	90 Days
2 in 90 days	Less than one minute	180 Days
2 in 90 days	Greater than one minute	360 Days
3 in 365 days	None	12 Months
3 in 365 days	Regardless of time	18 Months

()

b. A violation of a law or rule governing boxing, wrestling, martial arts, or combination thereof which also exists in this state; or ()

c. Any other conduct which discredits boxing, wrestling, martial arts, or combination thereof as determined by the Commission. ()

104. TIME BETWEEN CONTESTS.

In no case may a combatant (excluding wrestlers) participate in more than one (1) contest or exhibition in any twenty-four (24) hour period. Without the special permission of the Commission, a combatant may not compete in this state until after time has elapsed in the following increments:

Number of Rounds for Contest	Days Elapsed Since Last Contest to Compete Again
Not More than Four (4) Rounds	Four (4) Days
Five (5) or Six (6) Rounds	Seven (7) Days
Seven (7) or Eight (8) Rounds	Fourteen (14) Days
Nine (9) or Ten (10) Rounds	Twenty-one (21) Days
Eleven (11) or Twelve (12) Rounds	Forty-Five (45) Days

()

105. FEMALE COMBATANTS.

01. Limitation. A female combatant will not engage in a contest with a male combatant. ()

02. General Requirements. In addition to meeting such requirements of this chapter as are applicable to combatants generally, a female applicant will submit to pregnancy test within fourteen (14) days of the contest. ()

03. Addendum Requirement. A female combatant will, in addition to signing the contract, sign an addendum certifying that the combatant is not pregnant and that the contest will not take place during a menstrual period. ()

106. REQUIREMENTS FOR LICENSE AS A PROMOTER.

Any person applying for a license as a promoter may need to appear before the Commission and prove their preparations to successfully promote a sanctioned event and pay all obligations. ()

107. HEALTH INSURANCE.

An event promoter will obtain health insurance sufficient to cover the medical, surgical, and hospital care of all event participants, other than the promoter, for injuries sustained while participating in the event. The insurance shall provide primary coverage for each such participant, and the minimum amount coverage per participant will be ten thousand dollars (\$10,000). The participant may not be required to pay a deductible associated with care provided under this insurance. If a participant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the participant or the participant's beneficiaries for reimbursement for the payment. ()

108. SURETY BOND OR OTHER SECURITY.

01. Requirement. Every promoter who applies for a sanctioning permit shall furnish a surety bond or other form of financial security to the Commission consistent with Section 54-408, Idaho Code. The bond or other form of financial security will be in an amount deemed by the Commission to be adequate to guarantee payment of all taxes, fees, fines, and other moneys due and payable under Title 54, Chapter 4, Idaho Code and the Commission's rules, including reimbursement to the purchasers of tickets for the event. ()

02. Various Locations. The promoter may apply one (1) bond or other form of financial security to multiple locations if only one (1) of the covered locations is scheduled for an event on any given calendar date. ()

03. Total Sum. Each bond or other form of financial security must be conditioned for the payment to the Commission of a sum equivalent to the total sale of tickets: ()

a. If the main event is not held on the date advertised, unless the event is subsequently held on a date fixed by the Commission; and ()

b. If the main event is neither held on the original date advertised nor on a subsequent date fixed by the Commission. ()

04. Sum Due. The sum is due within fifteen (15) days after default, to ensure reimbursement to the purchasers of tickets for the event, if the reimbursement of ticket holders is ordered by the Commission. ()

109. APPROVAL OF SANCTIONED EVENT PERMITS.

01. Prior Approval. No contest will be held without the prior approval of the Commission. A promoter will submit a completed application on a form provided by the Division for a sanctioning permit to hold an event on a specific date, and a permit must be issued by the Commission before the event may be announced or advertised. ()

02. Deadline. A complete application together with application fees, applicable bond amount, proof of insurance, and information regarding the combatants named in the main and semi-main contest must be received by the Commission no less than thirty (30) days prior to the date requested for the event named in the application.

Combatants named in contests may be changed at the discretion of the Commission. ()

03. Cancellation. The failure of the promoter to notify the Commission of a cancellation at least seven (7) calendar days before the date for the program will result in the forfeiture of all fees and will be grounds for disciplinary action. ()

110. ARRANGEMENT OF CONTEST FOR PROMOTER.

A Contest may not be arranged on behalf of a promoter except by a licensed matchmaker. ()

111. NON-COMBATANT LICENSES.

No person will be retained for any of the following positions unless currently licensed by the Commission: ()

01. Second. ()

02. Combatant. ()

03. Matchmaker. ()

04. Ring Official. ()

112. MANAGER ACTING AS SECOND.

A manager licensed by the Commission may act as a second without having a second's license. ()

113. REQUIREMENTS FOR LICENSE AS A RING OFFICIAL.

Ring official is any individual who performs an official function during the progress of a regulated contest or exhibition including, but not limited to, timekeepers, judges, referees and attending physicians. ()

01. Qualifications. To qualify for a license as a ring official of contests, an applicant will: ()

a. Be at least twenty-one (21) years of age. The Commission may, for good cause shown, lower the minimum age limit for a particular applicant to eighteen (18) years of age; ()

b. Submit a record of conviction of a crime for Commission review in compliance with Section 67-9411, Idaho Code; ()

c. Have had at least one (1) year experience in amateur or professional contest as a ring official; ()

d. Submit verifications from two (2) persons of proficiency as a ring official; and ()

e. Each referee licensed by the Commission will be required to undergo an eye examination conducted by an optometrist or ophthalmologist. The Commission may request the licensee to produce all records of the examination. The Commission may require each referee license by the Commission to submit to a pre-fight physical. ()

02. Equivalent Qualifications. In lieu of the above qualifications, the Commission may accept satisfactory evidence of equivalent qualifications possessed by an applicant who is currently licensed in another state or country. ()

114. OFFICIALS OF EVENTS.

01. Officials Described. The officials of events are the referee, judges, timekeeper, physician, and the Commission's agents. ()

02. Commission Involvement. The Commission will approve and assign all the officials. The promoter may select the announcer, subject to the Commission's approval. ()

115. REFEREES.

01. Selection. The Commission will select the referee for the main event in championship events and for events that the Commission considers to be special events. The Commission will set the fee and reasonable expenses the referee is entitled to receive for an event. ()

02. Protests. If any licensee of the Commission protests the assignment of a referee, the protesting licensee will be given a hearing by the Commission if time permits. If time does not permit, the matter will be heard by two (2) Commissioners in order to make such disposition of the protest as the facts may justify. Protests not made in a timely manner may be summarily rejected. ()

116. JUDGES.

01. Selection. The Commission will select the judges for the main event in championship events and for any other events which the Commission considers to be special events. ()

02. Protests. If any licensee of the Commission protests the assignment of a judge, the protesting license will be given a hearing by the Commission if time permits. If time does not permit, the matter will be heard by two (2) Commissioners in order to make such disposition of the protest as the facts may justify. Protests not made in a timely manner may be summarily rejected. ()

03. Fees. The Commission will set the fee and reasonable expenses which the judges are entitled to receive for an event. ()

04. Station of Judges. Judges will be stationed ringside at places designated by the Commission. ()

05. Physical Examination. Each judge licensed by the Commission may be required to submit to or provide proof of a complete physical examination, including an eye examination. ()

117. DENIAL OR REVOCATION OF LICENSE.

01. Grounds. The Commission may deny an application or suspend or revoke a license, or take such other disciplinary action deemed appropriate if it finds that the applicant or licensee or any partner, officer, director, stockholder, or employee of the applicant or licensee has: ()

a. Performed any act which constitutes a violation of the laws or rules of the Commission. ()

b. Has been convicted of a felony relevant to licensure with the Commission; ()

c. Engages in illegal bookmaking; ()

d. Engages in any illegal gambling activity; ()

e. Engages in any fraud or misrepresentation in the application process; ()

f. Has a recent history of drug abuse or fails a drug test or refuses to submit to a drug test; ()

g. Is under suspension from any other commission; ()

h. Failure to report to the Commission a request or suggestion that a contest not be conducted honestly; or ()

i. Is engaged in any activity or practice which is detrimental to the best interests of a contest regulated by the Commission. ()

118. PENALTIES FOR CERTAIN VIOLATIONS – REVIEW BY COMMISSION.

01. Penalties General. Except as otherwise provided in this chapter, the Commission may charge a penalty not to exceed twenty-five thousand dollars (\$25,000) for: ()

a. Any violation of the provisions of these rules (IDAPA 24.02.01, “Rules of the State Athletic Commission”); or ()

b. Being late or failing to appear for a weigh-in or contest. ()

02. Later Review. Any disciplinary action taken pursuant to these rules may be reviewed at a later date by the Commission. ()

119. SUSPENSION AND REVOCATION OF LICENSES.

Every person whose license has been suspended or revoked by the Commission will refrain from participating in or matchmaking or holding contests during the period of suspension or after the revocation. ()

01. Comply with Suspensions. Every promoter and matchmaker will take notice of the bulletins of suspension sent out by the Commission and will not permit any person under suspension to take any part as a participant or in arranging or conducting matches or exhibitions during the period of suspension. ()

02. Specific Actions. Any person whose license has been suspended or revoked is barred from: ()

a. The dressing rooms at the premises where any program of boxing is being held; ()

b. Occupying any seat within six (6) rows of the ring platform; ()

c. Approaching within six (6) rows of seats from the ring platform; and ()

d. Communicating in the arena or near the dressing rooms with any of the principals in the contests, their managers, their seconds, or the referee, whether directly or by a messenger, during any program. ()

e. Having any dealings related to mixed martial arts, boxing, or wrestling with any person whose license had been suspended or revoked by the Commission. ()

f. Any person who violates a provision of Subsection 120.02 of this rule may be ejected from the arena or building where the program is being held, and the price paid for admission refunded upon presentation of the ticket stub at the box office. Thereafter, they are barred entirely from all premises used for contests or exhibitions while the programs are being held. ()

03. Dishonest Methods. If a license issued by the Commission has been suspended because the holder used dishonest methods to affect the outcome of any contest or because of any conduct reflecting serious discredit upon the sport of boxing, the Commission will not reinstate the license for six (6) months in the case of first offense. In the case of a second offense, the holder’s license will be revoked. ()

04. Temporary Suspension. Any manager under temporary suspension is considered to have forfeited all rights in this state under the terms of any contract with a combatant licensed by the Commission. Any attempt by a suspended manager to exercise those contract rights will result in a permanent suspension of their license. A combatant, matchmaker, or promoter who continues to engage in any contractual relations with a manager whose license has been suspended by the Commission may be indefinitely suspended. ()

05. Continuation. A combatant whose manager has been suspended may continue to compete independently during the term of that suspension, signing contracts for matches. Payment of a combatant’s earnings may not be made by any promoter to a manager who is under suspension, or to a suspended manager’s agent, but will be paid in full to the combatant. ()

06. Cancellation of Contract Rights. Revocation of a manager’s license automatically cancels all contract rights in this state under any contracts with combatants made under the authority of the Commission. If such a revocation occurs, a combatant may operate independently and make contracts for matches or enter into contracts with other managers licensed by the Commission. ()

120. FEES.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Professional Combatant	\$150	\$150
Amateur Combatant	\$100	\$100
Non-combatant	\$150	\$150
Matchmaker	\$250	\$250
Promoter	\$1,000	\$750
Sanction Permit	\$200	\$250
Ring Official	\$150	\$150

()

121. – 199. (RESERVED)

200. PHYSICIAN QUALIFICATIONS.

A physician is an individual licensed under the laws of this state to engage in the general practice of medicine or osteopathic medicine. A physician will also have training or experience in combative sports. ()

201. PHYSICIAN'S DETERMINATION OF FITNESS OF COMBATANTS AND REFEREE – CERTIFICATION – REPORT.

01. Determination of Physician. The physician who examines any combatant or referee who has contracted to participate in an event will determine that a combatant or referee will not participate in the event and must immediately report such finding to the promoter and the Commission if: ()

- a. The combatant is unfit for competition; or ()
- b. The referee is unfit for officiating. ()

02. Written Certification. If the examining physician finds that the combatants and referees are in good physical condition, the physician will, one (1) hour before the start of the event, give written certification of those findings to the Commission. ()

03. Physician's Written Report. Within twenty-four (24) hours after the event ends, the physician will mail or deliver to the Commission his written report on every licensee he examined. The report will be on a form furnished by the Commission. ()

202. COMBATANT’S REPORT OF OWN ILLNESS OR INJURY – EXAMINATION – FEE.

01. Combatant’s Report of Non-Participation to Commission. When a licensed combatant is unable to take part in a contest for which they are under contract because of injury or illness, they will immediately report the fact to the Commission and submit to an examination by a physician designated by the Commission. ()

02. Payment of Fees to Physician. The fee for the physician’s examination will be paid by the promoter if they have requested the examination, otherwise the fee will be paid by the combatant. ()

203. SUSPENSION OF LICENSEE FOR MEDICAL REASON.

Any licensee who is determined to be unfit to compete or officiate will be suspended until it is shown that he is fit for further competition or officiating. ()

204. PREPARATIONS TO STOP HEMORRHAGING.

The Commission will periodically review the preparations available to stop hemorrhaging. Avetine and Thrombin are the only Commission approved preparations to stop hemorrhaging. ()

205. PROHIBITED SUBSTANCES.

The Commission adopts the Athletes Guide to the 2020 Prohibited List published by the United States Anti-Doping Agency © 2019. Prohibited substances are regulated by Commission in the following manor: ()

01. Urinalysis. A combatant will submit to a urinalysis or chemical test before or after a contest if the Commission directs him to do so. ()

02. Suspension. A Combatant who tests positive for a prohibited substance in quantities prohibited by the incorporated document will forfeit purse. ()

03. Procedure for Testing for Prohibited Substance(s). ()

a. The Commission reserves the right to conduct random drug testing. A combatant with a recent history of drug abuse may be specifically required to test. Both combatants in a title contest will be tested by urine specimen or blood test at the discretion of the Commission. ()

b. The combatant to be tested shall go directly to the dressing room after the end of the fight. Only water may be consumed until the test sample has been taken. The Commission’s approved physician or agent will give each combatant the specimen container and observe the combatant give the specimen into the container. The container will be sealed and labeled by the physician or agent. The Chain of Custody Form is signed by the combatant, or manager, and the physician or agent will also sign and date the form. The physician or agent will transport the sample to the testing laboratory as selected by the Commission. Any other person taking custody of the sample will sign and date The Chain of Custody Form. After completion of the test, the Chain of Custody Form will be returned to the Commission with the test results. ()

206. CONTRACT BETWEEN MANAGER AND COMBATANT.

01. Contractual Obligations. The Commission may refuse to honor a contract between a manager and combatant unless it complies with the requirements Section 206 of this rule. A contract between a manager and a combatant will be for a term of not more than four (4) years. Such a contract may contain an option which permits the manager, at the expiration of the initial term, to renew the contract for an additional period of not more than two (2) years. ()

02. After Contract Services. A manager may not contract to receive the services of a combatant under their management for a match scheduled to take place after the expiration of the contract. ()

03. Options. A contract between a combatant and a manager may provide for voluntary binding arbitration of disputes by the Commission. If so agreed, the arbitration will be conducted by a member of the Commission mutually agreed upon by the two (2) parties or, if there is no agreement, by a member of the Commission appointed by the chairman. The arbitration will be conducted pursuant to generally accepted arbitration standards. ()

04. Contract Approval. The Commission may approve a contract entered into in another jurisdiction by a person who is not a resident of Idaho if the terms of the contract comply with the requirements of this section. If the terms of the contract exceed the limitations contained in this section, the Commission may honor the contract to the extent of those limitations. ()

05. Manager Limitations. A manager may not negotiate or sign for matches for a combatant who is not under contract to him. Any combatant who does not have a contract with a licensed manager must sign for his own contest and sign the receipt for his own purse. A manager or managers may not participate separately or collectively in more than thirty-three and one-third percent (33 1/3%) of the combatant’s earnings in the ring.

()

06. Manager Responsibilities. If a manager signs only for a combatant’s appearance at a contest, a copy of the manager’s authorization to negotiate and sign for the combatant must accompany the contract which they concluded with the promoter. If the manager does not send a copy of his authorization, the Commission may deny any application received from the combatant or manager pending a hearing before the Commission. ()

207. MANAGER'S ADVANCES – ACCOUNTING.

Any manager who advances or lends any money to any combatant or incurs indebtedness on behalf of a combatant will furnish an accounting in writing to the combatant every ninety (90) days. The accounting will be verified by the manager and set forth each item of indebtedness owed by the combatant, the date that the indebtedness occurred, the purpose of the indebtedness, and the name of the person to whom the debt is owed. ()

208. CONTRACT BETWEEN PROMOTER AND COMBATANT.

01. Gate Receipts. A promoter may not deduct any amount from the gate receipts, other than for any federal taxes and the fees prescribed herein until all combatants who are to be paid a percentage of the receipts have been paid, unless the amount to be paid to the combatant is specified in the contract. ()

02. Contract Prohibitions. A contract which provides that a combatant fight exclusively for or at the option of one (1) promoter or that a combatant is to pay for the services of an opponent is prohibited. ()

209. COMBATANT NOT TO HAVE PROMOTER OR CERTAIN OTHERS ACT AS MANAGER OR HOLD FINANCIAL INTEREST.

A combatant may not have a promoter or any of its members, stockholders, officials, matchmakers or assistant matchmakers act directly or indirectly as manager, or hold any financial interest in the management of the combatant’s earnings. ()

210. FILING CERTAIN CONTRACTS WITH COMMISSION.

01. Main and Semi-Main Events. A contract between a promoter and a combatant for the main and semi-main events of a program will be filed with the Commission at least seven (7) working days before the event unless the Commission gives special approval for filing the contract closer to the time of weighing in. ()

02. Other Combatants. Contracts for all combatants who will be contending in the program will be filed before the scheduled time for weighing in. ()

03. Disciplinary Action. A promoter or matchmaker who fails to file a contract for any participant whose name is released to the news media is subject to disciplinary action. ()

04. Media Contracts. Any contract by the promoter for the sale, lease, or other use of rights to broadcast, televise including a right to make a closed-circuit telecast, or take motion pictures of a contest will be filed with the Commission at least five (5) working days before the event unless the promoter obtains special approval from the Commission for filing the contract at a time closer to the event. ()

211. PERCENTAGE OF GATE RECEIPTS TO COMBATANT.

Each combatant working on a percentage basis will be paid on the basis of the net receipts of each exhibition after state and federal taxes, ring expenses, and the price of complimentary tickets upon which a price is specified, have been deducted. ()

212. PROMOTER'S ADVANCES TO COMBATANT OR MANAGER OR OCCURRENCE OF DEBT ON HIS BEHALF.

01. Restrictions. A promoter licensed by the Commission will not directly or indirectly make any loan or advance to any combatant or manager. ()

02. Any Indebtedness Restricted. A promoter will not, directly or indirectly, create any indebtedness

which becomes the obligation of a combatant or manager unless the promoter has the express written permission of the Commission for that action. ()

213. FAILURE OF COMBATANT TO APPEAR.

Any combatant who fails to appear in an event in which the combatant signed a contract to appear, without a written excuse determined to be valid by the Commission or a certificate from a physician designated by the Commission in advance in case of physical disability, is subject to disciplinary action. Any combatant who files a certificate from a physician designated by the Commission stating that he is unable to fulfill a contract because of physical disability must, on being restored to the eligible list, fulfill his contract with the same opponent or a suitable substitute specified in the contract within a reasonable time, that period to be set by the Commission, unless the combatant is released from the contract by mutual agreement. ()

214. PAYMENT OF COMBATANT.

01. Payment in Full. Every combatant will be paid in full according to the combatant’s contract, and no part of the combatant’s remuneration may be withheld except by order of the Commission, nor may any part of the combatant’s remuneration be returned through arrangement with the combatant’s manager to any matchmaker or promoter, except as otherwise provided in this section. ()

02. Prior Written Commitments. With the prior written permission of a member of the Commission, a promoter may withhold from the purse of a combatant money advanced to the combatant for transportation and maintenance in preparation for a contest, if their agreement so provides. ()

03. Manager's Share. A manager’s share of the purse may be deducted and paid directly to the manager if the contract so specifies. ()

04. Pending Action. If arbitration of a contract entered into by a manager and combatant is pending before the Commission or if the contract is in litigation in a court of competent jurisdiction, the Commission may: ()

- a. Withhold the amount in dispute in the Commission’s trust fund until resolution of the dispute; or ()
- b. Pay the disputed amount to the clerk of the court in which the litigation is pending. ()

05. Prior Approval of Commission. Neither a combatant nor his manager may assign their share of the purse, or any portion thereof, without the approval of the Commission. If a combatant or manager wants to assign their share of the purse, they must file a written request with the Commission at least seven (7) working days before the contest. ()

215. PAYMENT OF PURSE.

01. Payment Made. All payment of purses will be made: ()

- a. Immediately after the contest or exhibition; or ()

- b. If the combatant is to receive a percentage of the net receipts, immediately after that percentage is determined by a person designated by the Commission, unless otherwise ordered by the Commission. ()

02. Signatures. Immediately after the contest or exhibition, the Commission designated person will release the checks or cash to the entitled persons and will obtain their signatures on a list in which they acknowledge the payment. ()

03. Reconciliation. The promoter may withhold an amount of not more than ten percent (10%) of the purse for payment of expenses incurred by the combatant. A reconciliation of those expenses and payment of the undistributed portion of the purse will be made to the Commission on the Commission’s form within seven (7) working days after the contest. The reconciliation must bear written approval of the combatant before it is submitted.

If good cause is shown, the chairman of the Commission may grant an extension of the date for reconciliation for a period not to exceed thirty (30) days after the contest. ()

04. Alternative Payment. The Commission may permit a form of payment other than those specified in this section. A promoter who wishes to pay the purse by an alternative method of payment will: ()

- a. Submit a written request to the Commission at least thirty (30) days before the contest. ()
- b. Describe in detail the alternative method of payment contemplated. ()
- c. Show good cause for a waiver of the provisions as outlined in Section 215 of this rule. ()
- d. Comply with all requirements of the Commission regarding the production of relevant information. ()
- e. Follow the procedural directives of the Commission if the request is granted. ()

05. Non-Payment of Amateurs. Consistent with Section 54-402, Idaho Code, a promoter may not compensate any amateur for participating in or being associated in any way with the promoter's event. This ban absolutely bars a promoter from paying an amateur to sell tickets or merchandise or provide services related to an event. ()

216. RETAINING PORTION OF PURSE PENDING DETERMINATION OF WHETHER PENALTY WILL BE CHARGED.

At any time before the award of a purse to a combatant, the Commission may specify any amount not to exceed twenty-five thousand dollars (\$25,000) to be retained from the combatant's purse and transferred from the promoter to the Commission. The money will not be given to the combatant until the Commission determines that no penalty in lieu of revoking the combatant's license will be charged for any action or condition of the combatant. Any amount so specified is not a limitation upon the amount of a penalty which may be charged. ()

217. – 298. (RESERVED)

299. CHANGES TO MAIN AND SEMI-MAIN EVENTS.

01. Notice. The promoter must request Commission approval of any change in an announced or advertised program for the main and semi-main events at least one (1) week before the event. Notice of any change or substitution must also be conspicuously posted at the box office of the premises where the program is to be held and announced from the ring before the opening contest. ()

02. Refunds. If such change to the main or semi-main events occur and any patron desires a refund of the ticket price, the promoter will provide a refund upon presentation of the ticket or the ticket stub at the box office before the event is scheduled to begin. The box office must remain open a reasonable length of time to redeem such tickets. ()

03. Substitutions. A combatant may not substitute for another combatant in a contest which is the main and semi-main events unless the Commission approves the substitution. ()

300. PROGRAM FOR CHARITY.

01. Application. A person who wishes to present a program or event under the jurisdiction of the Commission for charitable purposes will submit a sanction application to present the program. The application will contain the name of the charity, charitable fund or organization which is to benefit from the program and the amount or percentage of the receipts of the program to be paid to the charity. ()

02. Certified, Itemized Statement. Within seventy-two (72) hours after such a program is held, the promoter will furnish to the Commission a certified itemized statement of the receipts and expenditures in connection with the program and the net amount paid to the charitable fund or organization. If the promoter fails to file the

statement within the prescribed time, the Commission: ()

a. May suspend or revoke the promoter’s license; and ()

b. May prohibit the promoter from holding any program for charitable purposes. ()

301. BEVERAGE CONTAINERS.

All drinks at an event will be dispensed in paper or plastic cups. ()

302. – 399. (RESERVED)

400. ADMISSION FEE AT QUARTERS WHERE COMBATANT TRAINS.

01. Fee. An admission fee may not be charged to enter the quarters where a combatant is training unless the Commission has authorized the charging of admission. Where such an admission fee is charged, the Commission will consider the charge to be for the privilege of seeing an exhibition. ()

02. State Fee. The state fee on those gross receipts, exclusive of any federal taxes paid thereon, will be sent to the Commission with the report. ()

401. TICKETS LIMITED TO SEATING CAPACITY OF ARENA.

The sale of tickets for an event may not exceed the seating capacity of an indoor arena and no ticket may be issued for standing room. A person may not be sold the right of admission without a ticket. ()

402. TICKETS.

01. Inventory. The ticket outlet shall report to the Commission an inventory, which they affirm under oath to be correct, of all the tickets issued. ()

02. Notification. The promoter will notify the ticket outlet of the requirements of this section. ()

403. CONTENTS OF TICKETS.

01. General. Every ticket will have the price, name of the promoter, and date of the program plainly on it. ()

02. Changes. Requests for changes in ticket prices or dates of programs will be made in writing to the Commission for approval. ()

03. License to Sell. Tickets may not be sold by any person except through an agency holding a license to sell the tickets unless the sale is first approved by the Commission. ()

404. COMPLIMENTARY TICKETS.

01. Limitation. A promoter may not issue complimentary tickets for more than two percent (2%) of the seats in the arena without the Commission’s written authorization. Complimentary tickets authorized under this section do not constitute part of the total gross receipts from admission fees for the purposes of calculating the Commission taxes. ()

02. More Than Two Percent Issued. If complimentary tickets are issued for more than two percent (2%) of the tickets sold: ()

a. Each combatant who is working on a percentage will be paid their percentage of the normal price of all complimentary tickets in excess of two percent (2%) of the tickets sold unless the contract between the combatant and the promoter provides otherwise and stipulates the number of complimentary tickets which will be issued; and ()

b. If a service charge is made for complimentary tickets, the combatant is entitled to be paid their percentage of that service charge, less any deduction for federal taxes and fees. ()

405. PROVISIONS OF TICKETS WITHOUT CHARGE OR AT REDUCED RATES.

01. No Fees. Persons who receive tickets pursuant to this section are not liable for the payment of any fees for those tickets. ()

02. Optional Charges. Each promoter may provide tickets without charge or at a reduced rate to: ()

a. Any employees, and if the promoter is a corporation, to a director or officer, who is regularly employed or engaged in promoting such programs, whether or not their duties require them to be admitted to the particular program and whether or not he is on duty at the time of that program; ()

b. A journalist performing their duties as such; and ()

c. A fireman or police officer performing their duties as such. ()

03. Duties Required. Each promoter will perform the following duties in relation to the issuance of complimentary tickets issued: ()

a. Each ticket issued to a journalist will be clearly marked “PRESS.” No more tickets may be issued to journalists than will permit comfortable seating in the press area. ()

b. The promoter may allocate seats for the media, subject to the Commission’s final approval of the allocation. Seating at the press tables or in the press area will be limited to journalists who are actually covering the contest and to other persons designated by the Commission. ()

c. A list of passes issued to journalists must be submitted to the Commission. ()

d. Only one (1) complimentary ticket may be issued to any one (1) manager, second, combatant, or other person licensed by the Commission. ()

e. The Commission will approve in advance any credential issued by the promoter which allows an admission to the event without a ticket. Requests for the issuance of such credentials must be made at least five (5) hours before the first contest on the program. ()

04. Admission Criteria. Admission of any person who does not hold a ticket or who is not specifically exempted pursuant to this section is grounds for suspension or revocation of the promoter’s license or the assessment of a penalty. ()

05. Fees. The Commission will collect all fees and taxes due on any ticket which is not specifically exempt pursuant to this section, and for any person who is admitted without a ticket in violation of this section. ()

406. SPECULATION IN TICKETS PROHIBITED.

01. Prevent Speculation. A promoter who holds programs or events under the jurisdiction of the Commission shall exercise extraordinary caution to prevent speculation in tickets. ()

02. No Other Price. The promoter may not sell any tickets for a price other than the price printed thereon. ()

a. The promoter may not, without the Commission’s written permission, change the price of tickets at any time after they have been placed on sale or sell them at any time during the program for a different price than

tickets for the same seats were offered or sold before the program commenced. ()

b. Any ticket sold for other than the price printed on the ticket will be over stamped with the actual price charged. The over stamp must be placed on the printed face of the ticket as well as the stub retained by the holder of the ticket. ()

03. Exchange. A person may only exchange tickets at the box office. A ticket may not be redeemed after the show has taken place. Tickets that have not sold will be returned to the box office not later than one (1) hour before the show is scheduled to begin. ()

04. Removal and Possession of Stub. A holder of a ticket for a program or event will not be allowed: ()

a. To pass through the gate of the premises where the program is being held unless their ticket has been redeemed. ()

b. To occupy a seat unless in possession of proof of purchase of a ticket for that seat. ()

05. Tickets for Readmission. A promoter may not issue a ticket to any person for the purpose of readmission due to leaving the arena and later reentering the arena, unless the promoter has obtained the Commission’s written permission for such an issuance. ()

407. – 414. (RESERVED)

415. TICKETS – REMOVAL AND RETENTION AFTER MATCH – DESTRUCTION.

After the tickets and stubs have been held for at least fifteen (15) days by the Commission, the Commission will destroy them. If the tickets are not taken by the Commission, they must be retained by the promoters for at least six (6) months. Those tickets may be destroyed after they have been held for at least thirty (30) days and written permission has been granted by the Commission for the destruction of such tickets. Tickets need to be kept in separate packages for each show so that the Commission may, at any time, conduct an audit. ()

416. – 499. (RESERVED)

500. ADMISSION OF LICENSEES AND AGENTS TO EVENTS.

The promoter of any event under the jurisdiction of the Commission will admit the following to said event without a ticket: ()

01. Participants. Any individual who is licensed by the Commission and who has been authorized by the Commission to participate in said event upon such individual’s presentation of a current and valid license issued by the Commission. ()

02. Commissioner or Agent. The Athletic Commissioner, any Deputy Commissioner, and any agent of the Division upon presentation of valid identification that identifies the holder as a member of the Commission or an agent of the Division. ()

501. PAYMENT OF FEE TO OFFICIAL DESIGNATED BY COMMISSION.

A promoter will pay the fee and reasonable expenses set by the Commission to any person directed by the Commission to officiate in an event promoted by that promoter. ()

502. POSTPONEMENT OF PROGRAM.

01. Prior Approval. A promoter may only postpone a sanctioned event with approval from the Commission. ()

02. No Fault Postponement. If a postponement of a sanctioned event becomes necessary through no fault of the promoter, the Commission will grant an extension of the contracts and set a new date. ()

03. Limitations on Postponement. A small advance sale is not a legitimate reason for postponement. Indoor boxing and wrestling programs may not be called off or canceled on account of storms or for any other reason not expressed in this chapter except as approved by the Commission. ()

04. Advance Notice. A promoter may not call off a sanctioned event without one (1) week prior written approval of the Commission. ()

503. REQUIRED NUMBER OF AMBULANCES – NOTICE TO AMBULANCE SERVICE AND HOSPITAL.

01. Required Number of Ambulances. The following number of ambulances must be present at the site of any program or event under the jurisdiction of the Commission: ()

a. Where the anticipated attendance is four thousand (4,000) persons or more but less than eight thousand (8,000) persons, one (1) ambulance. ()

b. Where the anticipated attendance is eight thousand (8,000) persons or more, two (2) ambulances. ()

02. Promoter Requirements. Each promoter of a program or event will, without regard to the size of the anticipated attendance: ()

a. Give notice of the time, date and site of the program to the ambulance service or emergency medical service which is located nearest to the site of the program and ascertain from the service the length of time for one (1) of its ambulances to reach the site. ()

b. Give such a notice to the nearest hospital and the persons in charge of its emergency room. ()

c. Before the start of the program or event, certify to a member of the Commission that the requirements of this section have been met. ()

504. SANITATION.

01. Sanitary Conditions. Each promoter is responsible for and must correct any violation of the regulations of the Commission or the public health district regarding the sanitary condition of dressing rooms, showers, water bottles, towels or other equipment. ()

02. Reporting. Physicians and the Commission or its agents will make a particular examination before or during each program or event to discover any violation of such regulations, and any such violation will be reported to the Commission immediately. ()

505. AUTHORIZED PERSONS IN DRESSING ROOMS.

01. Authorized Persons to Enter. On the day of a contest only the following people are allowed in the dressing room of a combatant: ()

a. The combatant’s manager; ()

b. The combatant’s seconds; ()

c. Any authorized agent of the promoter; and ()

d. Members of the Commission or its agent. ()

02. Other Persons. The promoter will furnish a doorman or doormen at the entrance to the dressing rooms to enforce this section. ()

506. EQUIPMENT OF THE CHIEF SECOND.

- 01. Equipment.** The chief second will be equipped with: ()
 - a.** A clear plastic water bottle; ()
 - b.** A bucket containing ice; ()
 - c.** A solution of a kind approved by the Commission for stopping hemorrhaging; ()
 - d.** Adhesive tape; ()
 - e.** Gauze; ()
 - f.** Scissors; and ()
 - g.** One (1) extra mouthpiece. ()
- 02. Ammonia.** No ammonia may be used in the ring. ()
- 03. Inspection.** The ring physician or the Commission may at any time inspect the contents of the chief second's first-aid kit. ()

507. BELL OR GONG.

There will be a bell or gong at the ring no higher than the floor level of the ring. The bell or gong will produce a clear tone easily heard by the combatants. ()

508. EQUIPMENT OF A TIMEKEEPER.

Every timekeeper will have the equipment prescribed by the Commission and will carry out the duties directed by the Commission. ()

509. – 599. (RESERVED)

600. ADVANCE APPEARANCE OF COMBATANT SCHEDULED TO FIGHT IN MAIN EVENT.

01. When to Appear. Each combatant who is scheduled to fight in a main event, except a combatant in a regularly scheduled weekly contest, must be present in any place specified by the promoter at least three (3) days before the scheduled day of the contest for the purpose of training, publicity, and whatever other purpose the promoter may desire, unless the combatant has the Commission's express written approval to be absent. ()

02. Expenses. Unless otherwise provided for in the contract, the combatant's expenses for this purpose will be borne by the promoter. If a combatant fails to comply with this requirement, the promoter, subject to approval of the Commission, may deduct ten percent (10%) of the offending combatant's purse. ()

601. WEIGHING IN OF COMBATANTS.

01. Attendees and Scales Used at Weigh-In. Each combatant will be weighed in the presence of the public, the other combatant, the Commission and an official representing the promoter, on scales approved by the Commission at any place designated by the Commission. ()

02. Attire. The combatant will have all weights stripped from his body before they are weighed in, but they may wear shorts. ()

03. Press Attendance. Press who provide official identification as such will be admitted to each official weighing in of a combatant. ()

04. Security. The owner or operator of the premises in which the weighing in is held will provide adequate security for all those present. ()

05. Weigh-Ins on Day of Contest. If a weigh-in is scheduled on the day of the contest, weight loss in excess of two (2) pounds after the time of the weigh-in is not permitted. ()

06. Weigh-in, Examination of Combatant May Be Ordered By the Commission. Any combatant who has signed a contract to compete on a promoter’s program is subject to an order by the Commission to appear at any time to be weighed or examined by any physician designated by the Commission. ()

602. COMBATANTS MUST REPORT.

Each combatant will report to the Commission in the dressing rooms at least one (1) hour before their scheduled time of the first match. ()

603. COSTUME AND EQUIPMENT.

01. Costume. Each combatant on a program will provide the Commission approved ring costume. ()

02. Fit. The trunks must be loose fitting and made of a lightweight cloth. The belt of the trunks must not extend above the waist line. ()

03. Other Equipment. Each combatant will wear: ()

a. A mouthpiece which has been individually fitted; and ()

b. An abdominal cup which will protect him against injury from a foul blow. ()

604. COMBATANT'S PHYSICAL APPEARANCE.

01. Grease or Foreign Substances. The excessive use of grease or any other foreign substance may not be used on the face of a combatant. The referees or the Commission will cause any excessive grease or foreign substance to be removed. ()

02. Hair. The Commission will determine whether head or facial hair presents any hazard to the safety of the combatant or their opponent or will interfere with the supervision and conduct of the contest. ()

605. PHYSICIAN – SUITABLE PLACE TO EXAMINE COMBATANT – FEE – EMERGENCY TREATMENT.

01. Suitable Examination Place. The promoter will provide the physician designated by the Commission a suitable place to examine each combatant. ()

02. Fees. The physician is entitled to receive a fee for their services at a bout. ()

03. Emergency Treatment. The physician will give any injured combatant temporary or emergency treatment in the arena or dressing room and no additional fee may be charged. ()

606. CONTINUOUS PRESENCE OF PHYSICIAN AT RINGSIDE.

01. Presence of Physician at Ringside. The physician designated by the Commission will sit at the immediate ringside at every event. A contest may not proceed unless the physician is seated at ringside. The physician must not leave until released by the Commission. ()

02. Injury to Combatant During Round. When a combatant appears to have been injured during the course of a round, their manager or second cannot attempt to render aid before the physician has had an opportunity to examine them. ()

607. PROCEDURE FOR USE OF SCORECARDS.

01. Scorecards. The Commission will give scorecards to each judge before the start of the contest. ()

02. Scoring by Judges. The judges will score each round of the contest on an individual scorecard and sign it. The referee will pick up the scorecard from each judge and turn in the scorecards at the Commission’s desk before the start of each round. ()

03. Presentation of Scorecards to Press After Contest. The Commission may show the scorecards to accredited representatives of the press after the completion of the contest. ()

04. Delivery of Scorecards to Commission. The Commission will mail or deliver the scorecards together with required reports regarding the contest to the Division. ()

05. Report of Each Contest. Reports of each contest will be kept on file in the office of the Division. ()

608. REFEREE'S INSTRUCTIONS TO COMBATANTS.

The referee will, before starting a contest, ascertain from each combatant the name of their chief second, who will be responsible for the conduct of the assistant seconds during the progress of the contest. The referee will call combatants together before each contest for final instructions, accompanied only by their chief second. ()

609. LIMITATIONS ON SECONDS.

01. Number of Seconds. No combatant will have more than three (3) seconds except that in a contest for a world title the Commission may authorize four (4) seconds. ()

02. Excessive Use of Water. Any excessive or undue spraying or throwing of water on any combatant by a second between rounds is prohibited. ()

610. PERSONS ALLOWED IN RING.

No persons other than the combatants and the referee may be in the ring during the progress of a round. ()

611. UNFAIR PRACTICES – DUTIES OF REFEREES.

01. Enforcing the Rules. A referee is responsible for enforcing the rules of the contest and cannot permit unfair practices that may cause injury to a combatant. ()

02. Warnings. Referees will warn the combatants whenever they are committing fouls. ()

03. Deducting Points. If a combatant persists in committing fouls after a warning, the referee will deduct points from or disqualify them. ()

612. STOPPING OF CONTEST – INJURY TO COMBATANT.

The referee, in consultation with the ring physician, will determine whether a contest should be stopped because of an injury to a combatant. ()

613. STOPPING OF CONTEST – ONE-SIDED CONTEST – RISK OF INJURY – EXAMINATION BY PHYSICIAN.

01. One-Sided Contested. The referee may stop a contest at any stage if they consider it too one-sided or if either combatant is in such a condition that to continue might subject him to serious injury. ()

02. Risk of Injury and Examination by Physician. If a combatant sustains any injury which the referee believes may incapacitate them, the referee will call the physician into the ring to examine the combatant. The

physician will give their opinion to the referee before the referee renders a decision in the matter. ()

614. STOPPING OF CONTEST – COMBATANT NOT HONESTLY COMPETING.

If the referee decides a combatant is not honestly competing, they may stop the contest before its scheduled completion, disqualify the combatant and recommend the purse of that combatant be held pending investigation by the Commission. The announcer will then inform the audience that no decision has been rendered. ()

615. FAILURE OF COMBATANT TO RESUME.

A combatant may not leave the ring during any one (1) minute rest period between rounds. If any combatant fails or refuses to resume the contest when the bell sounds signaling the commencement of the next round, the referee will award a decision of technical knockout to their opponent as of the round which has last been finished, unless the circumstances indicate to the referee the need for investigation or punitive action, in which event the referee will not give a decision and will recommend the purse or purses of either or both combatants to be withheld. ()

616. PROCEDURE WHEN COMBATANT IS KNOCKED OUT.

A combatant who has been knocked out will be kept in a prone position until they have recovered. Except for the referee or chief second who may remove the mouthpiece, no one may touch them until the ring physician enters the ring and attends to them. ()

617. ANNOUNCEMENT OF WINNER OF BOUT.

At the termination of each boxing bout the announcer will announce the winner and the referee will raise the winner's hand. ()

618. CHANGE OF DECISION IN CONTEST.

The Commission will not change a decision rendered at the end of any contest unless: ()

01. Collusion. The Commission determines that there was collusion affecting the result of the contest. ()

02. Error in Scoring. The compilation of scorecards of the judges discloses an error which shows that the decision was given to the wrong combatant. ()

03. Error in Interpretation of Rules. As a result of an error in interpreting a provision of this chapter, the referee has rendered an incorrect decision. ()

04. Failure of Drug Test. The Commission determines that there was a violation of Section 205. ()

619. PHYSICIAN'S REPORT TO COMMISSION AFTER CONTEST.

On the report which the Commission-designated physician files after a contest, they shall list each case in which a combatant was injured during the contest, or applied for medical aid after the contest. ()

620. – 699. (RESERVED)

700. MARTIAL ARTS AND MIXED MARTIAL ARTS (MMA) – RULES.

A Licensed Combatant in an MMA contest must adhere to the rules of the Association of Boxing Commissions and Combative Sports Unified Rules of Mixed Martial Arts. ()

01. Regulation of Marital Arts and MMA. Except to the extent set forth under Sections 700-799 of these rules, all requirements and the limitations relating to combatants and licenses (as set forth within Title 54, Chapter 4, Idaho Code, and in the remaining rules of the Commission) will apply to all martial arts and MMA contests and exhibitions. Notwithstanding the foregoing, at its sole discretion, the Commission may, by specific reference in the sanctioning permit, allow the use of other requirements and limitations during a particular martial arts contest or exhibition. ()

02. The Association of Boxing Commissions and Combative Sports. The Commission adopts the Unified Rules of Mixed Martial Arts of the Association of Boxing Commissions and Combative Sports as the official

Rules of the Idaho Athletic Commission for Mixed Martial Arts. ()

03. MMA Weight Classes. The Commission adopts the Unified Rules of Mixed Martial Arts weight classes as listed in the Association of Boxing Commissions and Combative Sports Unified Rules for Mixed Martial Arts incorporated by reference in Section 002 of these rules. ()

04. Practices, Belt Promotion Testing, and Non-Contact Demonstrations. Martial arts practices, belt promotion testing and demonstrations (as used herein the term demonstrations means displays that do not involve combative contact between combatants or between participants) conducted by martial arts schools are not considered to be boxing. Such practices, testing, and demonstrations are exempt from the licensing requirements of Title 54, Chapter 4, Idaho Code, and persons do not need a license to participate in such practices, testing, and demonstrations. ()

05. Licensing Exemption. Martial arts schools that meet the conditions set forth within Section 54-406(3)(b), Idaho Code, may apply to the Commission for exemption from licensing and sanctioning permit requirements relating to exhibitions and contests. ()

06. Use of Official Rules for Art. Martial arts contests and exhibitions will be conducted pursuant to the official rules of the particular art. The sponsoring organization or promoter must file a copy of the official rules with the Commission before the Commission will issue a sanctioning permit for the contest or exhibition. ()

07. Gloves. The requirement set forth in Section 54-414, Idaho Code, of wearing boxing gloves applies to kickboxing but will not apply to any other form of martial art unless the use of boxing gloves is required by the official rules of that particular art. Any gloves utilized must be in good condition as approved by the commission. For main and semi main events, gloves will be in new condition and of the same brand for combatants. ()

08. Commission Approved Attire. ()

a. Each combatant will wear a foul-proof groin protector. ()

b. Each female combatant will wear Commission-approved form fitting breast support protection. Supports may not have brace, metal or hard material of any kind. ()

c. For male combatants, no body shirts or pants are allowed. Female combatants will wear fighting shorts and rash guard. ()

d. Combatant may only use soft materials to tie hair. ()

09. Prohibited Equipment and Attire. ()

a. The following equipment and attire are prohibited: ()

i. Shoes; ()

ii. Facial hair, if determined by the Commission to pose a health, safety or sanitary issue; ()

iii. Tar material on any part of the body; ()

iv. Henna-type tattoos; ()

v. Piercing accessories; and ()

vi. Makeup of any kind. ()

b. Masks, costumes, and props must be approved by the Commission prior to usage. ()

c. Fingernails and toenails must be cut and trimmed prior to a contest. ()

701. SUSPENSION OF MMA CONTEST FOR UNFORESEEN REASONS.

01. Unforeseen Reasons. If a contest has to be suspended for any reason other than the actions of the combatants, the referee will have the clock stopped and attend to the issue. The referee, Commission or Commission’s representative will decide the length of time allotted to address the issue. All reasonable efforts are made to resume the contest as soon as possible. It is expected that the responsible party or parties make a true effort to resolve the issue. ()

02. Suspicious Circumstances. If the contest is unexpectedly stopped under suspicious circumstances, all or part of the following actions may take place: ()

a. If a combatant or his corner is involved, the offending combatant may be disqualified. ()

b. The combatant may be subject to investigation and discipline in the event of a violation of these rules. ()

c. In certain circumstances the matter may be referred to the appropriate law enforcement agency or the courts, or both. ()

702. METHODS OF WINNING MMA CONTEST.

01. Knockout (KO). A knockout is declared when a combatant is unable to intelligently defend himself following a strike. ()

02. Technical Knockout (TKO). A technical knockout is declared when the licensed ringside physician or referee decides the combatant cannot continue due to a cut or other injury. ()

03. Submission. When a combatant submits by tapping out on the opponent or the mat as a result from a choke, lock, or any other legal technique or strike. A combatant may call out defeat when unable to tap out. ()

04. Referee Stoppage. The referee may stop the contest if a combatant can no longer defend himself or cannot or will not tap out, or for any other reason to preserve the health and safety of the combatants. ()

05. Decision. When the contest ends after the specified time period and there is no winner, or ends due to a foul or fouls that cause injury, or ends due to unforeseen circumstance, it will be scored by the three (3) judges. ()

a. Decisions made via a scorecard in MMA contest will be: ()

i. A “Unanimous Decision” in which all three (3) judges agree on winner. ()

ii. A “Split Decision” in which two (2) judges agree on one (1) combatant and one (1) judge scores for the other combatant. ()

iii. A “Majority Decision” in which two (2) judges agree on one (1) combatant and one (1) judge scores a draw. ()

b. A “Draw” may be: ()

i. A “Unanimous” decision in which all three (3) judges score the contest a draw; ()

ii. A “Majority” decision in which two (2) judges score the contest a draw and one (1) judge scores for a combatant; or ()

iii. A “Split” decision in which one (1) judge scores for a combatant, one (1) judge scores for the other ()

combatant and one (1) judge scores the contest a draw. ()

c. Other scorecard decisions are: ()

i. Technical Decision; ()

ii. Technical Draw; or ()

iii. No Contest. ()

d. A “Disqualification” can result from fouling or unsportsmanlike conduct as determined by the referee. ()

06. Inability of Opponent to Continue or Throws in Towel. If the opponent is unable or unwilling to continue the contest or the combatant’s corner decides that the combatant is unable to continue and indicates this by throwing the towel into the ring or cage, a TKO will result against this combatant. ()

703. MMA COMBATANT DOWN AFTER THE SOUND OF THE BELL.

01. End of Round. The round ends when the bell sounds to end the round. ()

02. Combatant Down After Round Has Ended. If during the round legal blows negatively affect a combatant and the combatant goes down after the bell has sounded ending the round, the referee will consider the round ended and the one-minute rest period started. The referee may then allow the combatant’s corner to assist the downed combatant or he may summon the ringside physician to evaluate the combatant, or both. ()

704. BLOWS AT OR AFTER THE BELL IN MMA CONTEST.

01. Legal Blow. A blow that strikes a combatant concurrent with the sounding of the bell is deemed to be a legal blow. ()

02. Illegal Blow. A blow that strikes a combatant after the sounding of the bell is deemed to be a foul. The referee will determine if it was accidental or intentional foul. ()

705. – 799. (RESERVED)

800. BOXING – RULES.

A licensed combatant in a boxing contest must adhere to the Unified Rules of the Association of Boxing Commissions and Combative Sports Unified Boxing Rules. ()

01. The Association of Boxing Commissions and Combative Sports. The Commission adopts the Unified Boxing Rules of the Association of Boxing Commissions and Combative Sports as the official Rules of the Idaho Athletic Commission for boxing. ()

02. Weights and Classes of Boxing Combatants. The classes and weights for each class are shown in the following schedule: ()

a. Strawweight – up to one hundred five (105) pounds. ()

b. Light-Flyweight – over one hundred five (105) to one hundred eight (108) pounds. ()

c. Flyweight – over one hundred eight (108) to one hundred twelve (112) pounds. ()

d. Super Flyweight – over one hundred twelve (112) to one hundred fifteen (115) pounds. ()

e. Bantamweight – over one hundred fifteen (115) to one hundred eighteen (118) pounds. ()

f. Super Bantamweight – over one hundred eighteen (118) to one hundred twenty-two (122) pounds. ()

- ()

g. Featherweight – over one hundred twenty-two (122) to one hundred twenty-six (126) pounds. ()
- h.** Super Featherweight – over one hundred twenty-six (126) to one hundred thirty (130) pounds. ()
- i.** Lightweight – over one hundred thirty (130) to one hundred thirty-five (135) pounds. ()
- j.** Super Lightweight – over one hundred thirty-five (135) to one hundred forty (140) pounds. ()
- k.** Welterweight – over one hundred forty (140) to one hundred forty-seven (147) pounds. ()
- l.** Super Welterweight – over one hundred forty-seven (147) to one hundred fifty-four (154) pounds. ()
- m.** Middleweight – over one hundred fifty-four (154) to one hundred sixty (160) pounds. ()
- n.** Super Middleweight – over one hundred sixty (160) to one hundred sixty-eight (168) pounds. ()
- o.** Light-Heavyweight – over one hundred sixty-eight (168) to one hundred seventy-five (175) pounds. ()
- p.** Cruiserweight – over one hundred seventy-five (175) to two hundred (200) pounds. ()
- q.** Heavyweight – all over two hundred (200) pounds. ()

03. Exceeding Weight Allowances. No contest may be scheduled and no combatant may engage in a boxing contest without the approval of the Commission if the difference in weight between combatants exceeds the allowance shown in the following schedule: ()

- a.** Up to one hundred eighteen (118) pounds – not more than three (3) pounds. ()
- b.** One hundred eighteen (118) to one hundred twenty-six (126) pounds – not more than five (5) pounds. ()
- c.** One hundred twenty-six (126) to one hundred thirty-five (135) pounds – not more than seven (7) pounds. ()
- d.** One hundred thirty-five (135) to one hundred forty-seven (147) pounds – not more than nine (9) pounds. ()
- e.** One hundred forty-seven (147) to one hundred sixty (160) pounds – not more than eleven (11) pounds. ()
- f.** One hundred sixty (160) to one hundred seventy-five (175) – not more than twelve (12) pounds. ()
- g.** One hundred seventy-five (175) to one hundred ninety-five (195) pounds – not more than twenty (20) pounds. ()
- h.** One hundred ninety-five (195) pounds and over – no limit. ()

04. Licensing Exemption. Amateur Boxing Organizations that meet the conditions set forth within

Section 54-406(3)(b), Idaho Code, are considered exempt from the licensing requirements set forth in these rules.

()

05. Boxing Gloves. The gloves used in a boxing contest must meet the following requirements:

()

a. General. The gloves will be examined by the Commission and the referee. If padding in any of the gloves is found to be misplaced or lumpy or if any of the gloves are found to be imperfect, they must be changed before the contest starts. No breaking, roughing or twisting of gloves is permitted.

()

b. Glove Specifications. The gloves for every main event will be new, of the same brand for both combatants, furnished by the promoter, and of the size specified by the Commission.

()

c. Sanitary. If gloves to be used in preliminary contests have been used before, they will be whole, clean and in sanitary condition. The gloves are subject to inspection by the referee or the Commission. If found to be unfit, they will be immediately discarded and replaced with gloves meeting the requirements of this section.

()

d. Weight of Gloves. Each combatant will wear gloves that are not less than eight (8) ounces and not more than ten (10) ounces in weight except that the Commission will set the weight of gloves to be used in a championship fight. Eight (8) ounce gloves will be used for all weight classes through welterweight (one hundred forty-seven (147) lbs). Super welterweight (above one hundred forty-seven (147) lbs) and above must use ten (10) ounce gloves.

()

e. All gloves will have the distal portion of the thumb attached to the body of the glove so as to minimize the possibility of injury to an opponent's eye.

()

06. Bandaging of Combatant's Hands. Bandages may not exceed one (1) winding of surgeon's adhesive tape, not over one and one-half (1 1/2) inches wide, placed directly on the hand to protect the part of the hand near the wrists. The tape may cross the back of the hand twice but may not extend within three-fourths (3/4) inch of the knuckles when the hand is clenched to make a fist.

()

a. Each combatant will use soft surgical bandage not over two (2) inches wide, held in place by not more than six (6) feet of surgeon's adhesive tape for each hand. Up to one (1) fifteen (15) yard roll of bandage may be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages.

()

b. Bandages must be adjusted in the dressing room in the presence of the Commission and both combatants. Either combatant may waive his privilege of witnessing the bandaging of the opponent's hands.

()

801. BOXING RING.

A boxing ring will meet the following requirements:

()

01. Ring Dimensions. The ring will be not less than sixteen (16) feet square not more than twenty-four (24) feet square within the ropes. The ring floor will extend at least eighteen (18) inches beyond the ropes. The ring floor will be padded with ensolite or another similar closed-cell foam. Padding will extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used.

()

02. Ring Platform. The ring platform will not be more than four (4) feet above the floor of the building, and will be provided with suitable steps for use of combatants. Ring posts will be of metal, not more than three (3) inches in diameter, extending from the floor of the building to a height of fifty-eight (58) inches above the ring floor. Rings posts will be at least eighteen (18) inches away from the ropes.

()

03. Ropes. There will be four (4) padded ring ropes, not less than one (1) inch in diameter and wrapped in soft material. The lower rope will be eighteen (18) inches above the ring floor and offset four (4) inches to the

outside of the ring from the ropes above. ()

802. KNOCKDOWN OF BOXING COMBATANT – PROCEDURE FOR COUNTING.

01. Knockdown. When a combatant is knocked down, the referee will order the opponent to retire to the farthest neutral corner of the ring, pointing to the corner, and immediately begin the count over the combatant who is down. The referee will audibly announce the passing of the seconds, accompanying the count with motions of his arm, the downward motion indication the end of each second. ()

02. Timekeeper. The timekeeper, by effective signaling, will give the referee the correct one (1) second interval for his count. The referee's count is the official count. Once the referee picks up the count from the timekeeper, the timekeeper will cease counting. No combatant who is knocked down may be allowed to resume boxing until the referee has finished counting to eight (8). The combatant may take the count either on the floor or standing. ()

03. Failure of Opponent to Stay in Farthest Neutral Corner. If the opponent fails to stay in the farthest neutral corner, the referee will cease counting until he has returned to his corner and will then go on with the count from the point at which it was interrupted. If the combatant who is down arises during the count, the referee may step between the combatants long enough to assure himself that the combatant just arisen is in condition to continue. If so assured, he will, without loss of time, order both combatants to go on with the contest. During the intervention by the referee the striking of a blow by either combatant may be ruled a foul. ()

04. Knock-Out. When a combatant is knocked out, the referee will perform a full ten (10) second count unless, in the judgment of the referee, the safety for the combatant would be jeopardized by such a count. If the combatant who is knocked down is still down when the referee calls the count of ten (10), the referee will wave both arms to indicate that he had been knocked out and will raise the hand of the opponent as the winner. ()

05. Both Combatants Down. If both combatants go down at the same time, the count will be continued as long as one (1) is still down. If both combatants remain down until the count of ten (10), the contest is stopped and the decision is a technical draw. ()

06. Combatants Down – Referee Counting. If a combatant is down as a result of a legal blow at or near the end of a round, the ring official will continue the count. The combatant cannot be saved by the bell. ()

803. RESUMING COUNT ON BOXING COMBATANT.

If a knockdown occurs before the normal termination of a round and the boxer who is down stands up before the count of ten (10) is reached and then falls down immediately without being struck, the referee will resume the count where it was left off. If the combatant is on the ring platform outside the ropes, he must enter the ring immediately where he may resume the contest or take a count. The referee will start the count as soon as the combatant who had fallen is back in the ring. ()

01. Stalling Outside Ropes. If the combatant stalls for time outside the ropes, the referee will start the count without waiting for him to reenter the ring. ()

02. Combatant to Neutral Corner. When one (1) combatant has fallen through the ropes, the other combatant will retire to the farthest corner and stay there until ordered to continue the contest by the referee. ()

03. Penalty. A combatant who deliberately wrestles or throws an opponent from the ring, or who hits when he is partly out of the ring and is prevented by the ropes from assuming a position of defense, may be penalized. ()

804. WHEN BOXING COMBATANT FALLS FROM RING DURING ROUND.

A combatant who has been knocked or has fallen through the ropes and over the edge of the ring platform during the contest may be helped back by anyone except his seconds or manager, and the referee may allow a reasonable amount of time for the combatant to return to the ring. If the combatant is on the ring platform outside the ropes, they must

enter the ring immediately where they may resume the contest or take a count them to reenter the ring. A combatant who deliberately wrestles or throws an opponent from the ring, or who hits when they are partly out of the ring and is prevented by the ropes from assuming a position of defense, may be penalized. ()

805. BOXING COMBATANT DEEMED DOWN.

01. Feet Off Floor. A boxer is deemed to be down when any part of his body other than his feet is on the floor. ()

02. Hanging Over Ropes. A boxer is deemed to be down when hanging over the ropes without the ability to protect himself and he cannot fall to the floor. A referee may count a combatant out if they are on the floor or are being held up by the ropes. ()

806. – 899. (RESERVED)

900. WRESTLING – SPECIAL LICENSE FOR A CONTEST.

Unless a special license has been obtained, all professional wrestling programs under the supervision and authority of the Commission are only exhibitions and not contests, and those exhibitions cannot be advertised or announced as contests. ()

901. WRESTLING – DISQUALIFICATION FOR DANGEROUS TACTICS.

01. Restrictions. The referee will not permit physically dangerous conduct or tactics. Any wrestler who fails to discontinue those tactics, after being warned by the referee, will be disqualified and have their purse held up and paid to the Commission. ()

02. Professionalism. A referee cannot participate in an exhibition to the extent that the Commission or the referee is made to look ridiculous. ()

902. LICENSEE'S DUTIES AT WRESTLING EXHIBITION.

01. Conduct. The referee, promoter and their agents, attaches and employees, and participants in any wrestling exhibition will maintain peace, order and decency in the conduct of the exhibition. ()

02. No Abusive Behavior. A person involved in such exhibition will not abuse the referee or an official of the Commission. ()

03. Decision and Appeal. The Commission will hear any complaint about a referee or an official. ()

903. WRESTLERS – PHYSICAL EXAMINATION.

Any person applying for or renewing a license as a wrestler will first be examined by a physician approved by the Commission to establish physical and mental fitness. A wrestler will be furnished a list of approved examining physicians by the Commission. The Commission may order the examination of any wrestler for the purpose of determining whether the wrestler is fit and qualified to engage in further exhibitions. ()

904. – 999. (RESERVED)

IDAPA 24.05 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES
24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS
DOCKET NO. 24-0501-2200F (FEE RULE)
NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

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 Section 67-2604 and Section 54-2406, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, October 25, 2022 – 2:00 p.m. (MT)
Division of Occupational and Professional Licenses Chinden Campus Building 4 – Eagle Rock Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

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 proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / Board of Drinking Water and Wastewater Professionals:

IDAPA 24.05

- 24.05.01, *Rules of the Board of Drinking Water and Wastewater Professionals*. (Rule 300.04 amended to expand opportunity to attend an apprenticeship in lieu of post high school education and removed outdated rule referenced in Rule 400).

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals – Fees are established in accordance with Section 54-2407, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Examination	Amount set by examination provider
Endorsement	\$30
Original License	\$30
Annual renewal	\$30

FEE TYPE	AMOUNT (Not to Exceed)
Reinstatement	As provided in Section 67-2614, 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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 5, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
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**THE FOLLOWING IS THE PROPOSED TEXT OF OMNIBUS FEE DOCKET NO. 24-0501-2200F
(New Chapter)**

24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-2406, Idaho Code.

()

001. SCOPE.

These rules govern the practice of drinking water operators, wastewater operators, and backflow assembly testers.

()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Class I Restricted License. Class I restricted license means a water or wastewater license associated with a specific class I system. A restricted license is available for water distribution or treatment or for wastewater collection or treatment. A restricted license is not transferable and does not qualify for endorsement.

()

02. DEQ. The Idaho Department of Environmental Quality.

()

03. Direct Supervision. Supervision in a way that will ensure the proper operation and maintenance of the public drinking water or public wastewater system. Supervision shall include, but not be limited to, providing written, hands-on, or oral instruction as well as verification that the instructions are being completed. The supervisor has an active on-site or on-call presence at the specific facility.

()

04. Endorsement. Endorsement (often referred to as “reciprocity”) is that process by which a person licensed in another jurisdiction may apply for a license in Idaho.

()

05. EPA. The United States Environmental Protection Agency.

()

06. Experience. One (1) year of experience is based upon a minimum of one thousand six hundred hours (1,600) worked.

()

07. On-Site Operating Experience. On-site operating experience means experience obtained while physically present at the location of the system.

()

08. Operating Personnel. Operating personnel means any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public drinking water system or a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health.

()

09. 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.

()

10. Responsible Charge Operator. An operator of a public drinking water system or wastewater system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system or wastewater classification, who is in responsible charge of the public drinking water system or the wastewater system.

()

11. Substitute or Back-Up Responsible Charge Operator. An operator of a public drinking water or wastewater system who holds a valid license at a class equal to or greater than the drinking water or wastewater 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.

()

12. Very Small Public Drinking Water System. A community or non-transient non-community 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).

()

13. Very Small Wastewater System. A public wastewater system that serves five hundred (500)

connections or less and includes a collection system with a system size of six (6) points or less on the Department of Environmental Quality (DEQ) system classification rating form and is limited to only one (1) of the following wastewater treatment processes: ()

- a. Aerated lagoons: ()
- b. Non-aerated lagoon(s); ()
- c. Primary treatment; or ()
- d. Primary treatment discharging to a large soil absorption system (LSAS). ()

011. -- 149. (RESERVED)

150. APPLICATION.

Each applicant for licensure must submit a complete application together with the required fees. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. The Board will not review an application until all required information is furnished and the required fees paid. ()

01. Licensure by Examination. An application is made on the uniform application form adopted by the Board and furnished to the applicant by the Division. All applications will include: ()

- a. Documentation of having met the appropriate educational requirement; ()
- b. Documentation of all actual applicable experience giving kind and type of work done, together with dates of employment, and verification by affidavit of the most current applicable experience, signed by the person under whose supervision the work was performed. ()

02. Licensure by Endorsement. An application is made on the uniform application form adopted by the Board and furnished to the applicant by the Division. All applications must include: ()

- a. Official documentation of licensure sent to the Division directly from each regulatory authority from which the applicant has obtained licensure. Documentation will include name, address, current status, date originally issued, expiration date, and any disciplinary action imposed; ()
- b. A copy of the current regulations governing licensure in each jurisdiction from which the applicant obtained licensure. ()

03. Application Required. Applicants seeking licensure in any type or classification of licensure must submit a separate application for each type and classification of licensure being sought. Applicants holding a current type and classification of license and who are seeking a classification upgrade within the same license type and category are not required to submit an original license fee with their application. ()

151. -- 174. (RESERVED)

175. LICENSE TYPES AND CLASSIFICATIONS.

The Board issues the following licenses under the provisions of Chapter 24, Title 54, Idaho Code. ()

- 01. Drinking Water Distribution Operator.** ()
 - a. Class Operator-In-Training, Class I Restricted, Class I, Class II, Class III, or Class IV. ()
- 02. Drinking Water Treatment Operator.** ()
 - a. Class Operator-In-Training, Class I Restricted, Class I, Class II, Class III, or Class IV. ()
- 03. Wastewater Treatment Operator.** ()

- a. Class Operator-In-Training, Lagoon, Class I Restricted, Class I, Class II, Class III, Class IV, or Land Application. ()
- 04. Wastewater Collection Operator.** ()
- a. Class Operator-In-Training, Class I Restricted, Class I, Class II, Class III, or Class IV. ()
- 05. Wastewater Laboratory Analyst.** ()
- a. Class I, Class II, Class III, or Class IV. ()
- 06. Backflow Assembly Tester.** ()
- 07. Drinking Water Very Small System Operator.** ()
- 08. Wastewater Very Small System Operator.** ()

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATION AND LICENSURE.

Application and examination fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Examination	Amount set by examination provider
Endorsement	\$30
Original License	\$30
Annual renewal	\$30
Reinstatement	As provided in Section 67-2614, Idaho Code

()

201. -- 249. (RESERVED)

250. LICENSE REQUIRED -- SCOPE OF PRACTICE.

All water and wastewater operating personnel, including those in responsible charge and those in substitute responsible charge, of public water systems and public wastewater systems, and all backflow assembly testers, shall be licensed under the provisions of these rules and Chapter 24, Title 54, Idaho Code. ()

01. Drinking Water Operator Scope. Operating personnel shall only act in accordance with the nature and extent of their license. Those in responsible charge or substitute responsible charge of a public water system must hold a valid license equal to or greater than the classification of the public water system where the responsible charge or substitute responsible charge operator is in responsible charge. The types of water systems are distribution and treatment. ()

02. Wastewater Operator Scope. Operating personnel may only act in accordance with the nature and extent of their license. Those in responsible charge or substitute responsible charge of a public wastewater system must hold a valid license equal to or greater than the classification of the public wastewater system where the responsible charge or substitute responsible charge operator is in responsible charge. The types of wastewater systems are collection, laboratory analyst, and treatment. ()

03. Backflow Assembly Tester. Individuals licensed as backflow assembly testers may inspect and test backflow prevention assemblies as defined in Title 54, Chapter 24, Idaho Code. ()

04. Operator-in-Training. Operators-in-training may practice only under the direct supervision of a licensed operator of a type, category, and classification higher than operator-in-training. No operator-in-training can accept or perform the designated responsible charge duties at any system. ()

251. -- 299. (RESERVED)

300. GENERAL REQUIREMENTS FOR LICENSE.

Applicants must submit an application together with the required fees and required documentation. ()

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%). ()

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. ()

b. The examination for all types and classes of licensure will be validated and provided by the Association of Boards of Certification (ABC). The American Backflow Prevention Association (ABPA) backflow assembly tester examination is also approved for backflow assembly tester licensure. ()

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. ()

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 Requirements. Documentation must be provided showing proof of education required for the type and level of license being sought. ()

03. Experience Requirement. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable except as may be allowed by substitution as set forth in these rules. Experience as a laboratory analyst can be counted as wastewater operating experience for up to one-half (1/2) of the wastewater operating experience requirement but cannot be counted as responsible charge experience. Experience as a wastewater operator can be counted as laboratory analyst experience for up to one-half (1/2) of the laboratory analyst experience. Applicants may not receive more than one (1) year of experience for hours worked in excess of one thousand six hundred (1,600) hours in a calendar year unless specifically approved by the Board based upon documentation submitted by the Applicant. ()

04. Apprenticeship Program. The Board may approve Apprenticeship Programs that are designed to provide either experience or experience and education for individuals seeking licensure in Idaho as an Operator-In-Training, or a Class I, II, III, or IV Water or Wastewater Operator. A basic Apprenticeship Program is designed to provide hands on experience and education related to the operation of Class I and II facilities. An advanced Apprenticeship Program is designed to provide hands on experience and education related to Class III and IV facilities. All approved Apprenticeship Programs will be registered with the U.S. Department of Labor, Office of Apprenticeship, meet the Standards of Apprenticeship developed by the U.S. Department of Labor and meet the intent of these rules regarding the education and experience necessary for Operator-In-Training, Class I, II, III, and IV licensure. Sponsors of Apprenticeship Programs must seek Board approval by application along with all supporting documentation necessary to establish the program meets the intent of these rules regarding education and experience. The Board may revoke the approval of any program that fails to comply with the Board's rules. ()

301. -- 309. (RESERVED)

310. REQUIREMENTS FOR OPERATOR-IN-TRAINING LICENSE.

Each applicant for an Operator-In-Training License must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Examination. Pass the relevant Class I examination or be enrolled in an Apprenticeship Program approved by the Board. ()

311. -- 314. (RESERVED)

315. REQUIREMENTS FOR A VERY SMALL WATER SYSTEM LICENSE.

To qualify for a Very Small Water System license an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED and; ()

02. Experience. Document eighty-eight (88) hours of acceptable on-site operating experience at a water system; and ()

a. Complete an approved six-hour water treatment course or an approved six-hour chlorination course or a combination of said approved courses equaling six (6) hours; and ()

b. Complete an approved six-hour water distribution course; and ()

03. Examination. Pass the relevant very small water system examination. ()

316. -- 319. (RESERVED)

320. REQUIREMENTS FOR A VERY SMALL WASTEWATER SYSTEM LICENSE.

To qualify for a Very Small Wastewater System license, an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document fifty (50) hours of acceptable on-site operating experience at a wastewater collection system; and ()

a. Fifty (50) hours of acceptable relevant on-site operating experience at a wastewater treatment system or lagoon; and ()

b. Complete an approved six-hour pumps and motors course or an approved six-hour collection course or a combination of said approved courses equaling six (6) hours; and ()

c. Complete an approved six-hour lagoon operation and maintenance course; or an approved six-hour large soil absorption system course or an approved six-hour wastewater treatment course or a combination of said approved courses equaling six (6) hours; and ()

03. Examination. Pass the relevant lagoon examination. ()

321. -- 324. (RESERVED)

325. REQUIREMENTS FOR CLASS I RESTRICTED WATER OR WASTEWATER LICENSE.

To qualify for a Class I Restricted water or wastewater license an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document two hundred sixty (260) hours of acceptable relevant on-site operating experience during twelve (12) consecutive months with the system and complete sixteen (16) hours of continuing education relevant to the license; and ()

03. Examination. Pass the relevant Class I examination. ()

04. Restricted License Upgrade. Upon obtaining one thousand six hundred (1,600) hours of supervised on-site operating experience for each license, the operator shall be eligible to apply for an unrestricted Class I license. There is no limit on the amount of time needed to obtain the necessary experience to qualify for the unrestricted license. A restricted license is limited to a specific system. ()

326. -- 327. (RESERVED)

328. REQUIREMENTS FOR A CLASS I OPERATOR LICENSE.

To qualify for a Class I operator license an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document one (1) year of acceptable relevant on-site operating experience at a Class I or higher system or successfully complete one (1) year of an Approved Apprenticeship Program; and ()

03. Examination. Pass the relevant Class I examination. ()

329. (RESERVED)

330. REQUIREMENTS FOR A CLASS II OPERATOR LICENSE.

To qualify for a Class II license an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document three (3) years of acceptable relevant on-site operating experience at a Class I or higher system or successfully complete an Approved Apprenticeship Program; and ()

03. Examination. Pass the relevant Class II examination. ()

331. -- 334. (RESERVED)

335. REQUIREMENTS FOR A CLASS III OPERATOR LICENSE.

To qualify for a Class III license an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED and two (2) years of post-high school education in the environmental control field, engineering or related science or successful completion of an Approved Apprenticeship Program; and ()

02. Experience. Document four (4) years of acceptable relevant on-site operating experience, including two (2) years of responsible charge of a major segment of a system in the same or next lower class, of a Class I or higher system for collection or distribution or Class II or higher system for treatment; and ()

03. Examination. Pass the relevant Class III examination. ()

336. -- 339. (RESERVED)

340. REQUIREMENTS FOR A CLASS IV OPERATOR LICENSE.

To qualify for a Class IV license an applicant must meet the following requirements; ()

01. Education. Possess 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 ()

02. Experience. Document four (4) years of acceptable relevant on-site operating experience, including two (2) years of responsible charge of a major segment of a system in the same or next lower class, at a

Class I or higher system for collection or distribution or Class III or higher system for treatment; and ()

03. Examination. Pass the relevant Class IV examination. ()

341. -- 344. (RESERVED)

345. REQUIREMENTS FOR A LAGOON OPERATOR LICENSE.

To qualify for a lagoon license, an operator must meet the following requirements; ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document twelve (12) consecutive months of acceptable on-site operating experience at a Lagoon system; and ()

03. Examination. Pass the relevant Lagoon examination. ()

346. -- 349. (RESERVED)

350. REQUIREMENTS FOR A WASTEWATER LAND APPLICATION LICENSE.

To qualify for a Wastewater Land Application license, an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document a minimum six (6) months of on-site operating experience at a wastewater land application system; and ()

03. Examination. Pass the relevant Wastewater Land Application examination; and ()

04. Other. Possess a wastewater Class I or higher operation license. 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. ()

351. -- 354. (RESERVED)

355. REQUIREMENTS FOR A BACKFLOW ASSEMBLY TESTER LICENSE.

To qualify for a backflow assembly tester license, an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED, and ()

02. Experience. 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; and ()

03. Examination. Pass the relevant Backflow Assembly Tester examination. ()

356. -- 359. (RESERVED)

360. REQUIREMENTS FOR WASTEWATER LABORATORY ANALYST LICENSE.

To qualify for a wastewater laboratory analyst license, an applicant must meet the following requirements for the relevant class: ()

01. Class I. ()

a. Possess a high school diploma or GED; and ()

b. Document one (1) year of acceptable lab experience at a class I or higher system; and ()

- c. Pass the relevant class I laboratory analyst examination. ()
- 02. Class II.** ()
 - a. Possess a high school diploma or GED; and ()
 - b. Document three (3) years of acceptable lab experience at a class I or higher system; and ()
 - c. Pass the relevant class II laboratory analyst examination. ()
- 03. Class III.** ()
 - a. Possess 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 ()
 - b. Document four (4) years of acceptable lab experience at a class II or higher system; and ()
 - c. Pass the relevant class III laboratory analyst examination. ()
- 04. Class IV.** ()
 - a. Possess 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 ()
 - b. Document four (4) years of acceptable lab experience at a class III or higher system; and ()
 - c. Pass the relevant class IV laboratory analyst examination. ()

361. -- 374. (RESERVED)

375. SUBSTITUTIONS.

- 01. Substituting Education for Experience.** Applicants may substitute approved education for operating and responsible charge experience as specified below. ()
 - a. No substitution for on-site operating experience shall be permitted for licensure as a very small system operator or a Class I operator. ()
 - 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 on-site operating and responsible charge) has been met by actual on-site operating experience. ()
 - 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. ()
 - 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 on-site operating experience; however the applicant for Class III must still have one (1) year of responsible charge experience and the applicant for Class IV must have two (2) years of responsible charge experience. ()
 - e. Education substituted for on-site operating experience may not be also credited toward the education requirement. ()
 - 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 on-site operating or responsible charge experience. ()

02. Substituting Experience for Education. Where applicable, approved on-site operating and responsible charge experience may be substituted for education as specified below: ()

a. One (1) year of on-site operating experience may be substituted for two (2) years of grade school or one (1) year of high school with no limitation. ()

b. For Class III and IV, additional responsible charge experience (that exceeding the two-year class requirements) may be substituted for post-high school education on a one (1) for one (1) basis: one (1) year additional responsible charge equal one (1) year post-high school education. ()

03. 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: ()

a. Experience as an environmental or operations consultant; ()

b. Experience in an environmental or engineering branch of federal, state, county, or local government; ()

c. Experience as a wastewater collection system operator; ()

d. Experience as a wastewater treatment plant operator; ()

e. Experience as a water distribution system operator and/or manager; ()

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. ()

g. Experience in waste treatment operation and maintenance. ()

h. Experience as a laboratory analyst can be counted as wastewater operating experience for up to one-half (1/2) of the wastewater operating experience requirement but cannot be counted as responsible charge experience. ()

i. Experience as a wastewater operator can be counted as laboratory analyst experience for up to one-half (1/2) of the laboratory analyst experience requirement. ()

04. Equivalency Policy. Substitutions for education or experience requirements needed to meet minimum requirements for license will be evaluated upon the following equivalency policies: ()

a. High School - High School diploma equals GED or equivalent as approved by the Board equals four (4) years. ()

b. College - Thirty (30) credits equal one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields as determined by the Board). ()

c. Continuing Education Units (CEU) for operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equal one (1) CEU; forty-five (45) CEUs equal one (1) year of college. ()

376. -- 399. (RESERVED)

400. ENDORSEMENT.

The board may waive the examination requirements and issue the appropriate license for applicants holding licenses issued by other States that have equivalent license requirements and who otherwise meet the requirements set forth in Subsections 150.02 and 150.03. ()

401. -- 449. (RESERVED)

450. WASTEWATER GRANDPARENT PROVISION.

The board issued grandparent licenses to wastewater operators who provided documentation satisfactory to the board of being in responsible charge of an existing public wastewater system on or before April 15, 2006. ()

01. Grandparent License. A grandparent license allowed the licensee to operate in responsible charge of the specific facility identified in the original application. The license is site specific and non-transferable and does not grant authority for the holder to practice at any other system in any capacity as an operator. ()

02. License Requirements. A grandparent licensed wastewater operator is required to meet all other requirements including the continuing education and renewal requirements. ()

03. Wastewater System Classification Limitations. The grandparent license becomes invalid any time the classification of the wastewater system changes to a higher classification. ()

451. -- 499. (RESERVED)

500. CONTINUING EDUCATION.

01. Continuing Education Requirement. Each licensee must successfully complete a minimum of six (6) hours (0.6 CEUs) of approved continuing education annually for license renewal, except that backflow assembly testers will complete an eight (8) hour refresher course every two (2) years for license renewal. Continuing education must be earned in a subject matter relevant to the field in which the license is issued. A licensee holding one (1) or more drinking water license(s) only needs to complete the annual continuing education requirement for one (1) license. A licensee holding one (1) or more wastewater license(s) only needs to complete the annual continuing education requirement for one (1) license. A licensee holding both drinking water and wastewater class licenses will complete a minimum of six (6) hours annually for the drinking water license plus six (6) hours annually for the wastewater license. ()

a. Each licensee will submit to the Board an annual license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the CE requirements have been met. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. ()

b. A licensee will be considered to have satisfied their CE requirements for the first renewal of their license. ()

c. A water or wastewater licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. The same hours may not be carried forward more than one (1) renewal cycle. ()

d. Continuing Education hours for approved operator training courses, seminars, related college courses, and other training activities may be converted to Continuing Education Units (CEU) as follows: Six (6) classroom hours = point six (0.6) CEU. ()

02. Subject Material. The subject material of the continuing education requirement will be relevant to the license for which the continued education is required. "Relevant" will be limited to material germane to the operation, maintenance and administration of drinking water and wastewater systems as referenced in Chapter 24, Title 54, Idaho Code, and includes those subjects identified in the "need to know" criteria published by the Associations of Boards of Certification. ()

03. Course Approval. All course providers will submit requests for approval of continuing education courses to the Board in writing no less than thirty (30) days prior to the course being offered, on a form approved by the Board that includes: ()

- a. The name and qualifications of the instructor or instructors; ()
- b. The date, time and location of the course; ()
- c. The specific agenda for the course; ()
- d. The type and number of continuing education credit hours requested; ()
- e. A statement of how the course is believed to be relevant as defined; ()
- f. Any certificate of approval from a governmental agency if the course has been previously approved for continuing education; ()
- g. The training materials; ()
- h. Other information as may be requested by the Board. ()
- i. Upon review of all information requested, the Board may either approve or deny any request for a course. Board approval of a course will be granted for a period not to exceed five (5) years or until the course materials or instructors are changed. ()

04. Approved Courses. Those continuing education courses which are relevant and approved by the states of Nevada, Oregon, Montana, Utah, Wyoming, and Washington are deemed approved by the Board. ()

05. Verification of Attendance. It will be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification will be maintained by the licensee and provided upon request of the Board or its agent. ()

06. Distance Learning and Independent Study. The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the licensee in a face-to-face setting with the course instructor. The licensee will maintain documentation of the nature and details of the course and evidence that the licensee successfully completed the course, which will be made available to the Board upon request. ()

07. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. ()

08. Exemptions. The Board may waive the continuing education requirement or extend the deadline up to ninety (90) days for any one (1) or more of the following circumstances. The licensee requests the exemption and provides any information requested to assist the Board in making a determination. An exemption may be granted at the sole discretion of the Board. ()

- a. The licensee is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for licensure renewal and has complied with the requirements of that state or district. ()
- b. The licensee is a government employee working outside the continental United States. ()
- c. The licensee documents individual hardship, including health (certified by a medical doctor) or other good cause. ()

501. -- 599. (RESERVED)

600. RENEWAL OR REINSTATEMENT OF LICENSE.

01. Expiration Date. All licenses expire and must be renewed annually on forms approved by the Board in accordance with Section 67-2614, Idaho Code. Licenses not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. ()

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant shall submit proof of having completed the total number of required continuing education for each year the license or certificate was cancelled. ()

03. Operator-in-Training License. Applicants for the operator-in-training license shall, upon compliance with the requirements of Subsections 300.01 and 300.02, be issued a “one-time” non-renewable license for the purpose of gaining supervised experience as an operator-in-training (OIT). This license will be valid for three (3) years from the date of issue. ()

04. Backflow Assembly Testers. Backflow assembly testers shall complete a Board-approved eight (8) hour refresher course every two (2) years for license renewal. ()

05. Wastewater Land Application License. Wastewater land application licenses shall not be renewed unless the licensee also maintains a current wastewater treatment license. ()

601. -- 649. (RESERVED)

650. BACKFLOW ASSEMBLY TESTER CODE OF ETHICS AND STANDARDS OF CONDUCT.

All backflow assembly tester licensees shall comply with the Idaho Backflow Assembly Tester Code of Ethics and Standards of Conduct as approved by the Board and attached to these rules as Appendix A. ()

651. -- 699. (RESERVED)

700. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Chapter 24, Title 54, Idaho Code. ()

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Chapter 24, Title 54, Idaho Code. ()

701. -- 999. (RESERVED)

APPENDIX A

IDAHO BACKFLOW ASSEMBLY TESTER CODE OF ETHICS AND STANDARDS OF CONDUCT

The purpose of this rule is to protect public health by setting minimum requirements and standards for licensed Backflow Assembly Testers in Idaho who inspect and field test backflow assemblies, backflow prevention devices and air gaps that protect public water systems.

1. Code of Ethics -- A licensed Backflow Assembly Tester shall:

a. At all times, act in accordance with his/her primary obligation to perform his/her duties with due care and diligence to protect the safety, health and welfare of the public;

b. Comply with the laws and rules governing Backflow Assembly Testers and all applicable state and federal laws and regulations relating to backflow assembly testing;

c. Perform only those duties consistent with and appropriate to his/her experience, training, skills, abilities, and licensure; and

d. Be objective and truthful in all professional reports, statements, or testimony and include all relevant and pertinent information in such reports, statements or testimony.

2. Definitions:

a. Backflow Prevention Assembly: an approved assembly such as a Double Check Valve Assembly (DCVA), a Pressure Vacuum Breaker Assembly (PVBA), a Reduced Pressure Backflow Assembly (RPBA), or a Spill-Resistant Pressure Vacuum Breaker Assembly (SVBA) used for the protection of the public water supply according to the provisions of IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” as administered by DEQ.

b. Backflow Prevention Device: an approved device such as an Atmospheric Vacuum Breaker (AVB), which does not contain valves or test ports, or a method, such as an air gap, that is utilized to prevent cross connections to a public water supply.

c. Calibration/Verification: the annual verification, calibration, or both of a backflow assembly field test kit by an instrument calibration laboratory/facility or by a person qualified to verify and calibrate a field test kit such as a manufacturer, dealer licensed to calibrate or verify field test kits, or calibration technician.

d. Customer: means the owner of the property or his/her authorized or appointed agent.

e. Field Test Kit: an instrument, either mechanical or electronic in design, and all related fittings, tools, equipment and appurtenances necessary to perform field verification tests on backflow prevention assemblies.

3. Standards of Conduct

a. Principle 1 -- A Backflow Assembly Tester shall act only within the scope of practice as set forth in the Board’s laws and rules. A Backflow Assembly Tester must use due care and diligence in performing his/her duties.

b. Principle 2 -- When conducting inspections and field tests of backflow prevention assemblies, a Backflow Assembly Tester must use test procedures that comply with standard field test procedures.

c. Principle 3 -- The Backflow Assembly Tester shall observe or inspect existing installations of backflow prevention assemblies to identify whether the assembly is properly installed and whether, in the opinion of the Backflow Assembly Tester, the assembly is adequate and appropriate for the degree of hazard posed to the Public Water System having jurisdiction over the assembly.

i. A Backflow Assembly Tester must report improperly installed assemblies to the customer and the Public Water System having jurisdiction over the backflow prevention assembly and also must note the discrepancy on the test report and submit the test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

ii. A Backflow Assembly Tester must note discrepancies regarding inadequate or inappropriate backflow prevention assemblies on the test report and submit the test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

d. Principle 4 -- A Backflow Assembly Tester shall use a properly working and calibrated field test kit that meets the requirements of the Pacific Northwest Section of the American Water Works Association Cross Connection Control Manual, Seventh Edition, November 2012. When requested by a Public Water System, a Backflow Assembly Tester shall submit the most recent calibration report that verifies the accuracy of the field kit. When requested by a Public Water System, a Backflow Assembly Tester shall submit proof of current licensure in Idaho as a Backflow Assembly Tester.

e. Principle 5 -- The Backflow Assembly Tester must competently use a field test kit, all tools, and other equipment and appurtenances necessary to inspect and field test backflow prevention assemblies, inspect air

gaps and backflow prevention devices.

f. Principle 6 -- When a backflow prevention assembly passes a field test, the Backflow Assembly Tester shall submit within fifteen (15) business days of performing the field test a passing test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

g. Principle 7 -- When a backflow prevention assembly is defective or fails to pass the field test, the Backflow Assembly Tester shall submit immediately, if possible, but no later than within two (2) business days, a failing field test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

h. Principle 8 -- The Backflow Assembly Tester shall complete a test report for each backflow prevention assembly for which the Backflow Assembly Tester conducts a field test. A test report must be legible and contain all relevant and pertinent information pertaining to the field test including, at a minimum, the make, model, size, serial number, orientation, and test results for each test conducted.

i. A Backflow Assembly Tester shall record data and sign test reports only for backflow prevention assemblies for which the Backflow Assembly Tester has personally conducted the field test.

ii. A Backflow Assembly Tester shall not falsify the results of a backflow prevention assembly field test or inspection.

IDAPA 24.38 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 24-3801-2200F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

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 Section 67-2604 and Section 54-2105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Thursday, October 20, 2022 – 1:00-4:00 p.m. (MT)
Division of Occupational and Professional Licenses Chinden Campus Building 4 – Coolwater Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

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 proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / Board of Veterinary Medicine:

IDAPA 24.38

- 24.38.01, *Rules of the State of Idaho Board of Veterinary Medicine.*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.38.01, Rules of the State of Idaho Board of Veterinary Medicine – Fees are established in accordance with Sections 54-2105, 54-2107, and 54-2112, Idaho Code, as follows:

	New	Active Renewal	Inactive Renewal	Late/ Reinstatement	Inactive to Active Fee
Veterinary License	\$275	\$175	\$50	\$200	\$150
Certified Veterinary Technician	\$125	\$75	\$25	\$50	\$50
Certified Euthanasia Agency	\$100	\$200	-	\$50	-
Certified Euthanasia Technician	\$100	\$100	-	\$50	-

Duplicate Wall License/Certificate	\$25
Veterinary License Verification	\$20

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 is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 5, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
11341 W. Chinden Boulevard, Building #4
Boise, ID 83714
P.O. Box 83720
Boise, ID 83720-0063
tim.frost@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF OMNIBUS FEE DOCKET NO. 24-3801-2200F
(New Chapter)**

24.38.01 – RULES OF THE STATE OF IDAHO BOARD OF VETERINARY MEDICINE

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Title 54, Chapter 21, Idaho Code.

()

001. SCOPE.

The rules govern the licensing procedures, supervision requirements, standards of practice, inspections, and grounds for discipline of veterinarians, veterinary technicians, Committee on Humane Euthanasia members, and certified euthanasia technicians and agencies. ()

002. -- 004. (RESERVED)

005. INCORPORATION BY REFERENCE.

The Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised April 2016, is incorporated herein by reference in accordance with the provisions of Section 67-5229, Idaho Code. ()

006. -- 008. (RESERVED)

009. FOREIGN VETERINARY GRADUATE.

Any graduate of a veterinary school, college or university outside that fulfills the current requirements for foreign veterinary graduates as set forth by the Educational Commission for Foreign Veterinary Graduates or the American Association of Veterinary State Boards. A graduate enrolled in the foreign graduate program would be considered a student as defined by Section 54-2104(2)(b), Idaho Code. ()

01. Any graduate of an unaccredited veterinary school who has completed a curriculum of not less than four (4) academic years in a veterinary medical program approved by the Board and satisfactorily completed clinical education equivalent in purpose, content, experience and length to the clinical training received by students in an accredited veterinary medical program. Such clinical education needs to have been obtained pursuant to a formal affiliation agreement between the unaccredited veterinary school and an accredited veterinary medical program. Qualified graduates applying for Licensure under Subparagraph 010.01.b.i. of these rules may be issued a probationary license to practice veterinary medicine under the professional supervision of an actively licensed Idaho veterinarian. The probationary license may be renewed for up to three (3) years by paying the current active license renewal fee established by Section 011 of these rules, provided that during this three (3)-year period, the applicant has applied to complete the evaluated clinical experience requirements of the ECFVG program. The evaluated clinical experience requirements of the ECFVG program require that the applicant, following graduation from an unaccredited veterinary medical program, has successfully passed the Clinical Proficiency Examination (CPE) approved by the ECFVG. ()

02. At the end of the three (3)-year period, the Board will review the probationary license and determine has the whether to issue or deny a full license based on the candidates status in the foreign graduate program. ()

010. CHANGE OF ADDRESS.

It is the responsibility of each licensed veterinarian and certified veterinary technician to notify the Board office of any change of address. ()

011. FEE SCHEDULE.

The Board may pro-rate application fees to accommodate a shortened licensure or certification period before the applicant's first June renewal. ()

01. Fee Schedule.

	New	Active Renewal	Inactive Renewal	Late/ Reinstatement	Inactive to Active Fee
Veterinary License	\$275	\$175	\$50	\$200	\$150
Certified Veterinary Technician	\$125	\$75	\$25	\$50	\$50

	New	Active Renewal	Inactive Renewal	Late/ Reinstatement	Inactive to Active Fee
Certified Euthanasia Agency	\$100	\$200	-	\$50	-
Certified Euthanasia Technician	\$100	\$100	-	\$50	-

()

02. Administrative Services.

Duplicate Wall License/Certificate	\$25
Veterinary License Verification	\$20

()

012. CONTINUING EDUCATION.

A veterinarian and certified veterinary technician renewing a license shall report fifteen (15) hours of completed continuing education to the Board. ()

013. -- 099. (RESERVED)

100. CERTIFICATION OF VETERINARY TECHNICIANS.

01. Certificate Required. Any person representing themselves as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in Idaho. ()

02. Application for Certification -- Contents -- Examinations. An individual desiring to be certified as a veterinary technician shall make written application to the Board upon a form furnished by the Board. A complete application is valid for a period of one (1) year, contain the applicant's notarized signature, and include: ()

a. A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of age or older. ()

b. Documentation of education/training/experience as follows: ()

i. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program, accredited by the American Veterinary Medical Association; ()

ii. A certified copy of a diploma or transcript, or a letter verifying the award of a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or ()

iii. If a foreign veterinary graduate, a letter from the Educational Commission for Foreign Veterinary Graduates (ECFVG) certifying completion of the ECFVG program or a copy of the ECFVG certificate. ()

c. Verification of a criterion-referenced passing score reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard

deviation below the mean score of the examination. ()

i. The VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time. ()

ii. Scores for the VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards. ()

d. A passing score for the jurisprudence examination, which should be ninety percent (90%) or such score as deemed appropriate by the Board. The jurisprudence examination, as prepared by the Board or its designee, may be taken more than once. ()

e. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. All application and certification fees are nonrefundable. ()

101. -- 102. (RESERVED)

103. SUPERVISING VETERINARIANS.

01. Statement of Purpose. Veterinarians licensed under the provisions of Title 54, Chapter 21, Idaho Code, are responsible for all certified euthanasia technicians, certified veterinary technicians, veterinary assistants, or any others to whom they delegate the performance of acts pertaining to the practice of veterinary medicine. ()

02. A Supervising Veterinarian Shall: ()

a. Provide direct supervision for all procedures pertaining to the practice of veterinary medicine that are delegated to a certified veterinary technician, an assistant, or any others with the exception of: ()

i. Routine procedures in the practice of veterinary technology that include, but are not limited to, taking radiographs, weight and temperature, or as determined by the standard of practice for the area. These routine procedures may be performed under the indirect supervision of the veterinarian. ()

ii. Previously prescribed antibiotics and medications, which may be administered, dispensed, and delivered under the indirect supervision of the veterinarian. Previously prescribed antibiotics and medications does not include injectable controlled substances, injectable tranquilizers, injectable sedatives, and injectable or inhalant anesthetics, which may only be administered under the direct supervision of the veterinarian. ()

iii. Emergency situations. In these situations, in order to stabilize the animal, the veterinarian, while en route to the location of the distressed animal, may prescribe treatment and delegate appropriate procedures pertaining to the practice of veterinary medicine under indirect supervision. ()

b. Be available to supervise and direct all procedures pertaining to the practice of veterinary medicine that are delegated to others. ()

c. Bear legal responsibility for the health, safety and welfare of the animal patient that the certified veterinary technician, assistant, or any others serves. ()

d. Not delegate an animal health care task to an unqualified individual. ()

e. Make all decisions relating to the diagnosis, treatment, management, and future disposition of an animal patient. ()

f. Have examined the animal patient prior to the delegation of any animal health care task to a

certified veterinary technician, or assistant. The examination of the animal patient shall be conducted at such times as acceptable veterinary medical practice dictates, consistent with the particular delegated animal health care task. ()

g. Diagnose and perform operative dentistry, oral surgery, and teeth extraction procedures. Operative dentistry and oral surgery are considered to be any dental procedure which invades the hard or soft oral tissue including, but not limited to, a procedure that alters the structure of one (1) or more teeth or repairs damaged and diseased teeth, or the deliberate extraction of one (1) or more teeth. Operative dentistry and oral surgery do not include, removal of calculus, soft deposits, plaque, stains, floating to shape the teeth, or smoothing, filing or polishing of tooth surfaces above the gum line. ()

03. Limitations on Supervising Veterinarians. A supervising veterinarian shall not authorize a certified veterinary technician, an assistant, or anyone else, other than a licensed veterinarian to perform surgery, diagnosis, prognosis, prescribing, or operative dentistry/oral surgery. ()

104. GROUNDS FOR DISCIPLINE OF VETERINARY TECHNICIANS.

In addition to the provisions of Section 54-2118, Idaho Code, the Board may refuse to issue, renew, or reinstate the certification of a veterinary technician, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a veterinary technician, or may impose other forms of discipline, and enter into consent agreements and negotiated settlements with certified veterinary technicians pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for provisions of Section 54-2115, Idaho Code, any of the following reasons: ()

01. Unethical or Unprofessional Conduct. Unethical or unprofessional conduct is conduct that includes, but is not limited to, any of the following: ()

a. Providing any procedure to an animal that constitutes the practice of veterinary medicine or veterinary technology and which has not been delegated by the supervising veterinarian, except in the case of an emergency as defined by Section 54-2103(16), Idaho Code; ()

b. Practicing veterinary technology in a manner that endangers the health and welfare of the patient or the public. A certified veterinary technician shall not practice veterinary technology if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance, or as a result of any mental or physical disability; ()

c. Gross ignorance, incompetence or inefficiency in the practice of veterinary technology as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice veterinary technology in Idaho and the current teaching at accredited programs in veterinary technology; ()

d. Intentionally performing a duty, task, or procedure in the field of veterinary technology for which the individual is not qualified; or ()

e. Engaging in conduct of a character likely to deceive or defraud the public. ()

02. Conviction of a Charge or Crime. Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in Idaho or any other state of one (1) or more of the following: ()

a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or ()

b. Any other criminal act that in any way is related to the practice of veterinary technology as defined by Section 54-2103(47), Idaho Code. ()

03. Medical Incompetence. Medical incompetence in the practice of veterinary technology, which means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients.

()

04. Physical or Mental Incompetence. Physical or mental incompetence, which means the individual’s ability to practice veterinary technology with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any physical or mental disability. ()

05. Malpractice or Negligence. Malpractice or negligence, in the practice of veterinary technology, which includes, but is not limited to: ()

a. Treatment in a manner contrary to accepted practices in veterinary technology and with injurious results; ()

b. Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of an act that is part of the practice of veterinary technology; ()

c. Performance of an act that is part of the practice of veterinary technology without adequate supervision; except in the case of an emergency as defined by Section 54-2103(16), Idaho Code; or ()

d. The negligent practice of veterinary technology, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death. ()

06. Cruelty to Animals. Cruelty to animals, including, but not limited to, the intentional and malicious infliction of pain, physical suffering, injury or death, performance of experimental treatments without the owner’s consent, deprivation of necessary sustenance, withholding of appropriate pain medications or levels of pain medications, or the administration of unnecessary procedures and treatment. Infliction of pain on any animal in self-defense, or to prevent physical harm to others, or in accordance with local custom and culture in moving, handling, treating, dehorning, castrating or performing other procedures on livestock, shall not be considered cruel or physically abusive unless done in an unnecessary or intentionally malicious manner. This provision does not alter Section 25-3514, Idaho Code. ()

07. Revocation, Suspension, Limitation or Subjection. The revocation, suspension, limitation, or subjection of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice veterinary technology in that state or jurisdiction on grounds other than nonpayment of the renewal fee. ()

08. Continuing Education. Failure to comply with the continuing education requirements outlined by Board rules. ()

09. Failure to Cooperate. ()

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder. ()

b. Failure to comply with the terms of any order, negotiated settlement or probationary agreement of the Board. ()

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees as specified by Section 010 of these rules. ()

10. Violation of Law, Rules or Order. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any of the provisions of the veterinary law or rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code. ()

105. -- 149. (RESERVED)

150. VALID VETERINARIAN/CLIENT/PATIENT RELATIONSHIP.

An appropriate veterinarian/client/patient relationship will exist when: ()

01. Responsibility. The veterinarian has assumed the responsibility for making medical judgements regarding the health of the animal and the need for medical treatment, and the client (owner or other caretaker) has followed the instructions of the veterinarian. ()

02. Medical Knowledge. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has seen the animal within the last twelve (12) months or is personally acquainted with the keeping and care of the animal, either by virtue of an examination of the animal, or by medically appropriate visits to the premises where the animals are maintained within the last twelve (12) months. ()

03. Availability. The practicing veterinarian or designate is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy. ()

151. UNPROFESSIONAL CONDUCT.

Any violation of the Principles of the Veterinary Medical Ethics of the American Veterinary Medical Association, these rules, Chapter 21, Title 54, Idaho Code, constitutes unprofessional conduct. Unprofessional conduct includes, but is not limited to: ()

01. Unsanitary Methods or Procedures. Failure to apply sanitary methods or procedures in the treatment of any animal, contrary to Board rules. ()

02. Association with Illegal Practitioners. Includes, but is not limited to: ()

a. Having a professional relationship or connection with, lending one's name to, or otherwise aiding and abetting any illegal or unlicensed practice or practitioner of veterinary medicine and the various branches thereof; ()

b. Rendering professional service in association with a person who is not licensed; or ()

c. Sharing fees with any person, except a licensed veterinarian, for services actually performed. ()

03. False Testimony. Swearing falsely in any testimony or affidavits relating to, or in the course of, the practice of veterinary medicine, surgery or dentistry. ()

04. Gross Ignorance, Incompetence or Inefficiency. In determining gross ignorance, incompetence or inefficiency in the profession, the Board may take into account all relevant factors and practices including, but not limited to, the practices generally and currently followed and accepted by the persons licensed to practice veterinary medicine in Idaho, the current teaching at accredited veterinary schools, relevant technical reports published in recognized veterinary medical journals, and the desirability of reasonable experimentation in the furtherance of the art of veterinary medicine. ()

05. Improper Supervision. Includes, but is not limited to: ()

a. Permitting, allowing, causing or directing any individual to perform a duty, task or procedure that they are not qualified to perform. ()

b. Providing, permitting, allowing, causing or directing any individual to perform inadequate anesthetic monitoring. Evidence of this monitoring shall be documented in written form and contained within the medical record. ()

06. Association with Others. Accepting fees from the providers of animal services or products when referring clients to such providers. ()

152. CODE OF PROFESSIONAL CONDUCT.

The Board's code of professional conduct includes, but is not limited to, the following standards of conduct. A veterinarian shall: ()

01. Veterinarian/Client/Patient Relationship. Not dispense or prescribe controlled substances, prescription or legend drugs except in the course of their professional practice and after a bona fide veterinarian/client/patient relationship as defined by Section 150 of these rules has been established. ()

02. Health Certificate. Not issue a certificate of health unless they have personal knowledge by means of actual examination and appropriate testing of the animal that the animal meets the requirements for issuance of such a certificate. ()

03. DEA and Controlled Substance Registration. Notify the Board of the suspension, revocation, or voluntary surrender of their federal Drug Enforcement Administration (DEA) registration and their state controlled substance registration. ()

04. Ability to Practice. Not practice veterinary medicine as to endanger the health and welfare of their patients or the public. A veterinarian shall not practice veterinary medicine if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability. ()

05. Conflicting Interests. Not represent conflicting interests except by the express consent of all the parties after full disclosure of all the facts. A conflict of interest includes, but not be limited to, accepting a fee from a buyer to inspect an animal for soundness and accepting a fee from the seller. ()

06. Confidentiality. Maintain a confidential relationship with their clients, except as otherwise provided by law or required by considerations related to public health and animal health. ()

a. The information contained in veterinary medical records is considered confidential. It is unethical for a veterinarian to release this information except by court order or consent of the patient's owner or other caretaker at the time treatment was rendered. ()

b. Without express permission of the practice owner, it is unethical for a veterinarian or certified veterinary technician to remove, copy, or use the medical records or any part of any record belonging to the practice or its owner for any purpose other than the business of the practice. ()

07. Physical Abuse-Patient. Not physically abuse a patient or fail to conform to the currently accepted standards of care in the veterinary profession for any animal under their care. ()

08. Preservation of Patient's Body. Where possible preserve for twenty-four (24) hours the body of any patient that dies while in the veterinarian's care until the owner can be contacted, except as otherwise provided by law. The time of contact or attempted contact with the owner shall be documented in the medical record. The veterinarian is allowed to use the usual manner of disposal if the owner has not made pick-up arrangements within twenty-four (24) hours of the documented contact time. ()

09. Consent for Transporting. Obtain written consent from a patient's owner or other caretaker before transporting a patient to another facility for veterinary medical care or any other reason, unless circumstances qualifying as an emergency do not permit obtaining such consent. ()

10. Refusal to Render Services. Have the right to refuse to render veterinary medical services for any reason, or refuse an owner's request to euthanize a healthy or treatable animal. ()

153. STANDARDS OF PRACTICE.

Veterinarians shall adhere to the standards of practice including, but not limited to: ()

01. Practice Procedures. A licensed veterinarian shall exercise at least the same degree of care, skill, and diligence in treating patients that is ordinarily used in the same or similar circumstances by members of the

veterinary medical profession of similar training and experience in the community in which he practices. ()

02. Immunization. When the primary objective is to protect the patient’s health and a professionally acceptable immunization procedure is being sought, an examination of the animal by the veterinarian is required prior to each and every immunization procedure, unless the animal has been examined in the last ninety (90) days, except in the practice of large animal medicine where mass immunizations of animal herds is involved or when immunization is performed by the patient’s owner. For the purpose of this subsection, the definition of “owner” in addition to ownership as defined by the laws of the ownership of property, non-profit organizations dedicated to the care and treatment of animals is considered the owners of animals in their custody if such organizations are the primary care giver for the animal or if the true owner of such animal cannot be immediately determined. ()

03. Relationship. A veterinarian shall establish a valid veterinarian/client/patient relationship prior to dispensing, using, prescribing, or selling any controlled substance or legend drug, or the prescribing of an extra-label use of any drug. ()

04. Dispense and Distribute in Good Faith. A veterinarian dispensing or distributing any drug or medicine will dispense or distribute such drug or medicine in good faith, within the context of a valid veterinarian/client/patient relationship and will, except in the case of any drugs and medicines that are in containers that bear a label of the manufacturer with information describing their contents and that are labeled indicating: ()

- a. The date on which such drug is dispensed; ()
- b. The name of the owner and patient; ()
- c. The name or initials of the person dispensing such drug; ()
- d. Directions for use, including dosage and quantity; and ()
- e. The proprietary or generic name of the drug. ()

05. Anesthesia Standards. All anesthetized animals shall be appropriately monitored and under supervision. ()

154. RECORD KEEPING STANDARDS.

Every veterinarian shall maintain detailed daily medical records of the animals treated. Records shall be readily retrievable to be inspected, duplicated, or submitted when requested by the Board. All records shall be safeguarded against loss, defacement, tampering, and use by unauthorized personnel. If changes are made to any records the records must clearly reflect what the change is, who made the change, when the change was made, and why. Records shall be maintained for a period of three (3) years following the last treatment or examination. Patient medical records shall be maintained for every animal accepted and treated as an individual patient by a veterinarian, or for every animal group (for example, herd, litter, and flock) treated by a veterinarian. ()

- 01. Medical Records.** Medical records shall include, but not be limited to: ()
 - a. Name, address and phone number of the animal’s owner or other caretaker. ()
 - b. Name and description, sex (if readily determinable), breed and age of animal; or description of group. ()
 - c. Dates (beginning and ending) of custody of the animal. ()
 - d. A short history of the animal’s condition as it pertains to the animal’s medical status. ()
 - e. Results and notation of each examination, including the animal’s condition and diagnosis suspected. ()
 - f. All medications, treatments, prescriptions or prophylaxis given, including amount, frequency, and

route of administration for both inpatient and outpatient care. ()

g. Diagnostic and laboratory tests or techniques utilized, and results of each. ()

h. All anesthetized animals shall be appropriately monitored and under supervision at all times. Evidence of this monitoring shall be documented in writing in the medical record. ()

02. Consent Forms. Consent forms, signed by the patient’s owner or other legal caretaker for each surgical or anesthesia procedure requiring hospitalization or euthanasia, shall be obtained, except in emergency situations, for each animal and be maintained on file with the practitioner. ()

03. Postoperative Instructions. Postoperative home-care instructions shall be provided in writing and be noted in the medical record. ()

04. Treatment Records. Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient’s or animal group’s medical record any treatment the veterinarian personally performed and which treatments and procedures were delegated to a technician or assistant to perform. The patient’s record must also include a notation indicating when the animal was handed-off to another veterinarian or a treatment or procedure delegated to a technician or assistant along with a summary of the animal’s condition and diagnosis at the time of the hand-off. ()

05. Ownership of Medical Records. Medical records are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient’s owner may receive a copy of the patient’s medical record, upon the request of the patient’s owner or other caretaker. Records shall be supplied within three (3) business days, counting the day of the request if a business day. ()

06. Diagnostic Image Identification and Ownership. All diagnostic images shall be labeled in the emulsion film or digitally imprinted to identify the veterinarian or premise, the patient, the owner, the date, and anatomical orientation. A diagnostic image is the physical property of the hospital or the proprietor of the practice that prepares it, and it shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to whom it pertains or to the Board. Such diagnostic images shall be returned within a reasonable time to the veterinarian who originally ordered them to be prepared. ()

07. Estimates. A veterinarian shall make available to each client a written estimate on request. ()

155. -- 199. (RESERVED)

200. COMMITTEE ON HUMANE EUTHANASIA.

Pursuant to Section 54-2105(8), Idaho Code, a Committee on Humane Euthanasia (COHE) is established and consists of no fewer than five (5) members appointed by the Board. At its discretion, the Board may appoint itself as the COHE. New members will be nominated by either the Board or the COHE and be confirmed by the Board. Applicants for a COHE position shall be certified euthanasia technicians (CETs) and employed by a certified euthanasia agency or be a veterinarian ()

01. Term. Each member may serve for three (3) years, at the pleasure of the Board. A COHE member may be eligible for reappointment. If there is a vacancy for any cause, the COHE or the Board shall nominate and confirm a successor to fill the unexpired term. ()

02. Duties. The duties of COHE members include, but are not limited to, the following: ()

a. Coordinate and provide euthanasia training classes as needed. ()

b. Inspect and certify agencies. ()

c. Review the applications, records, performance, methods and procedures used by agencies and persons seeking to be certified or to renew their certification as a Certified Euthanasia Agency (CEA) or Certified

Euthanasia Technician (CET). ()

d. Conduct written and practical examinations for applicants applying for certification and authorize certification through the Board. ()

e. Recommend suspension or revocation of a certification when necessary. ()

201. METHODS OF EUTHANASIA AND PRE-EUTHANASIA SEDATION.

Methods approved by the COHE and used for the purpose of humanely euthanizing and sedating sick, homeless, or unwanted pets and animals: ()

01. Euthanasia Drugs. Any Schedule II non-narcotic or Schedule III non-narcotic euthanasia drug covered by the Controlled Substances Act that has first been approved in writing by the COHE and the Board. A list of approved euthanasia drugs is on file at the Board office. ()

02. Pre-Euthanasia Sedation Drugs. Any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs that have been approved for use by CEAs or CETs at a CEA facility. Such pre-euthanasia sedation drugs shall be limited to those approved in writing by the COHE and the Board. A list of approved pre-euthanasia sedation drugs is on file at the Board office. ()

202. PROCUREMENT AND ADMINISTRATION OF APPROVED DRUGS.

In order for a certified euthanasia agency to obtain approved drugs for euthanizing animals and a certified euthanasia technician to administer such drugs, the following procedure shall be followed: ()

01. DEA Registration. A certified euthanasia agency (CEA) shall appoint a person who will be responsible for ordering the approved drugs and who shall submit an application for the agency’s registration as a Euthanasia Agency Practitioner-A.S. to the Drug Enforcement Agency (DEA). The CEA shall also designate a certified euthanasia technician (CET) who will be responsible for the security of the agency’s approved drugs. ()

02. Controlled Substance Registration. Each CET employed by the agency shall apply for a controlled substance registration from the Idaho Board of Pharmacy under their individual name and using the CEA’s DEA registration number. ()

03. Purchase of Approved Drugs. After the certified euthanasia agency has received a DEA registration number and the CETs at that agency have received their Idaho Board of Pharmacy controlled substance registrations, the designated individual for the agency may on behalf of the agency purchase approved drugs for storage at the CEA location. Approved drugs shall only be obtained from a drug wholesaler. ()

04. Administration of Approved Drugs. Certified euthanasia technicians employed by certified euthanasia agencies and registered with the Idaho Board of Pharmacy may perform euthanasia by the administration of approved drugs. ()

203. (RESERVED)

204. CERTIFIED EUTHANASIA AGENCY.

A certified euthanasia agency is a law enforcement agency, an animal control agency, a humane society, or an animal shelter that has been inspected and certified by the COHE or the Board, Section 54-2103(8), Idaho Code. In order to be certified to purchase and store approved drugs, certified euthanasia agencies shall be inspected by the COHE or the Board and shall meet the following criteria: ()

01. Approved Drugs. ()

a. Each agency will maintain a current written list of CET(s). ()

b. Access to the approved drugs in a locked drug storage cabinet will be limited to licensed veterinary

supervisors and assigned CET. Such persons will be responsible for the security of the approved drugs and allow withdrawal of the approved drugs only to a person certified by the Board and registered with the Idaho Board of Pharmacy to administer such drugs. ()

c. All approved drugs shall be prepared according to the manufacturer’s instructions. ()

d. Needles and syringes will be of medical quality and will not be reused. ()

02. Proper Labeling. Upon removal from the shipment carton, each individual container of an approved drug will be labeled with the drug name and strength, the date the drug was prepared, a drug hazard warning label and the name and address of the agency owning the drug. ()

03. Temporary Storage. When a CET is on duty and when animals are being euthanized throughout the workday, approved drugs may be kept in a temporary locked drug storage cabinet. The key to this cabinet shall be secured by a licensed veterinary supervisor or the lead CET designated on the DEA controlled substance registration, and made available to the CET(s) performing euthanasia that day. ()

04. Record Keeping. Proper record keeping of approved drugs shall include the following: ()

a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number. ()

b. Administration records showing the date an approved drug was: ()

i. Administered; ()

ii. Weight and species of animal; ()

iii. Dosage of each drug administered for pre-euthanasia sedation, euthanasia, and remote chemical capture restraint; ()

iv. Identification of the person who dispensed the approved drugs; and, if applicable; ()

v. Identification of the veterinarian or CET who supervised the dispensing shall be maintained. ()

c. Records of wastage shall be maintained and signed by the CET administering the approved drug and the CET responsible for security. ()

d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security. ()

e. Disposal records of any expired or unwanted approved drugs shall be maintained. ()

f. All records shall be filed in chronological order in a binder that is labeled with the name of the agency and be kept for a period of three (3) years. ()

05. Proper Sanitation. The euthanasia area shall be clean and regularly disinfected. ()

06. Other Site Conditions. ()

a. Each agency shall have a specific area designated for euthanasia that is a separate room or area that is not used for any other purpose while animals are being euthanized: ()

b. The euthanasia area shall have a table or other work area where animals can be handled, and a cabinet, table or work bench where the drugs, needles, syringes and clippers can be placed. ()

c. The following items and materials shall either be kept in the euthanasia area or brought to the area each time an animal is euthanized: ()

i. A first aid kit that meets minimum first aid supply standards; ()

ii. One (1) or more tourniquets; ()

iii. Standard electric clippers with No. 40 blade; ()

iv. Animal control stick for dogs and animal net for cats (if the agency handles cats); ()

v. Stethoscope; ()

vi. Disinfectant. ()

vii. The current certification cards for the CEA and all CETs working at the CEA, which shall be kept together. The CEA is strongly encouraged to keep all DEA and Idaho Board of Pharmacy registration cards together with the certification cards. ()

d. All equipment shall be in good working order. ()

07. Equipment Stored. All equipment shall be stored so that it does not create a safety hazard for the personnel. ()

08. Certification Renewal. Certifications may be renewed upon successful completion of a facility inspection by a COHE member, a member of the Board or other individual appointed by the COHE and payment of the annual renewal fee. ()

205. CERTIFIED EUTHANASIA TECHNICIAN.

01. Training and Examinations. The COHE or the Board will develop training sessions, materials, and a written examination. ()

02. Certification Standards. Applicants for certification as a CET shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards: ()

a. Demonstrate competency in euthanasia techniques in the presence of a COHE or Board member, or a person approved by the Board: ()

i. CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper drug dosage, and drug handling; ()

ii. CETs shall be able to competently perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, meet the standards listed in Subparagraph 205.02.a.ii.(1) of these rules. Intracardiac injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subparagraph 205.02.a.ii.(3) of these rules. ()

(1) Intravenous Injections: The CET shall be able to competently insert the needle into an animal's vein when an animal is injected by this method. A minimum of two (2) people shall be required for any IV injection. One (1) person shall be a CET and one (1) or more people shall be the handler. The handler does not need to be a CET, but the handler should be trained in human safety and animal handling techniques; ()

(2) Intraperitoneal Injections: The CET shall be able to competently insert the needle into the proper area of the peritoneal cavity when an animal is injected by this method. It is recommended that animals injected by

this method be placed into a cage or carrier with no other animals. The cage or carrier shall be covered with cloth or other material that can keep the injected animal isolated from the normal activities in the euthanasia area. Intraperitoneal injections may be administered by a CET without a handler. ()

(3) Intracardiac Injections: Intracardiac injection shall be performed only on an anesthetized animal. CETs shall be able to competently insert the needle into the heart of an anesthetized animal, and intracardiac injections may be administered by a CET without a handler. ()

iii. No other euthanasia injection procedures are permitted in any type of animal with the exception of intramuscular and subcutaneous injections for pre-euthanasia sedation; ()

iv. Oral administration of approved euthanasia drugs is permitted for any animal that cannot be captured or restrained without serious danger to human safety; ()

b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept containing the following information: ()

i. A weekly verification of the drug stock on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security; ()

ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET responsible for security; ()

iii. The species and approximate weight of each animal administered a drug; ()

iv. The amount of the drug that was administered; ()

v. The date the drug was administered; ()

vi. The signature of the CET who administered the drug; ()

vii. A record of the amount of the drug wasted, if any, signed by the CET administering the drug and the CET responsible for security; and ()

viii. A record of any disposal of expired or unwanted approved drugs, other chemical agent or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. ()

c. Demonstrate understanding and concern for the needs and humane treatment of individual animals: ()

i. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the personal safety of the CET and the handler. Each animal shall be handled with the least amount of restraint necessary, but human safety is always the primary concern. Handling includes all aspects of moving an animal from one (1) area to another; ()

ii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and ()

iii. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question or be overcrowded in a cage or kennel. ()

d. Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within sixty (60) minutes of drug administration. If any animal does not show any of these signs within the designated time period, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the

following two (2) standards for death shall be met: ()

- i. Rigor mortis; or ()
- ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, and complete lack of corneal and palpebral reflexes. ()

e. Demonstrate ability to communicate with handlers during the euthanasia process. ()

03. Certification. ()

a. An individual shall not be certified as a CET until such time as he has successfully passed a euthanasia written examination, a practical or clinical examination, and an Idaho euthanasia jurisprudence examination. ()

b. The practical examination will test the individual’s knowledge and skills in the hands-on application of euthanasia procedures and practices in a clinical setting under the direction of a COHE member, a Board member, or a designee of either the COHE or Board. The Idaho euthanasia jurisprudence examination (which can either be a separate written test or combined with the euthanasia written examination) will be an examination testing the individual’s understanding of Idaho laws and Board rules addressing the practice of euthanasia. Both the euthanasia written examination and the euthanasia jurisprudence examination will be developed by the Board, the COHE, or a designee of either the Board or the COHE. ()

c. A passing score for the euthanasia written examination is eighty percent (80%), or such other score as deemed appropriate by the Board or the COHE. A passing score for the euthanasia jurisprudence examination is ninety percent (90%), or such other score as deemed appropriate by the Board or the COHE. A failed euthanasia jurisprudence examination may be retaken multiple times upon making arrangements acceptable to the Board. ()

d. Initial certification and certification renewal training sessions and examinations will be conducted at least once per year prior to July 1, and at such other times deemed necessary by the COHE, the Board, or a designee of either the COHE or the Board. Upon approval of the Board, a COHE member, or the designee of either the Board or the COHE, an individual may take the euthanasia written examination, the practical examination, and the euthanasia jurisprudence examination in any order. ()

e. An individual who has passed the written examination, but has not attended a training session and has not passed the practical examination, may serve as a probationary euthanasia technician under the direct supervision of a currently certified CET until such time as the next training course, practical examination and certification are conducted by a COHE member, a Board member, or the designee of either the COHE or the Board. ()

f. An individual who has not passed the written examination may not serve as a euthanasia technician. ()

g. An individual who attends a training session and passes the written examination but fails the practical examination may serve on probation until he has been re-examined. If the individual fails to pass the practical examination a second time and wishes to apply again, the individual shall attend the next regular training session and written examination. ()

h. Upon termination from an agency as defined in Section 204 of these rules, a CET’s certification immediately becomes invalid and the CET shall not perform animal euthanasia until employed by another certified euthanasia agency, at which time the certification may be reinstated. ()

i. The agency shall notify the Board office in writing within thirty (30) days from the date the CET’s employment at that agency is terminated. ()

j. If a CET is employed again by a CEA prior to the expiration of their certification, the CEA

employer may request reinstatement of the CET’s certification. If a CET has not attended a euthanasia training in the three (3)-year period preceding recertification, the CET may not be recertified and will need to reapply for certification, at COHE discretion. ()

k. All certifications expire on July 1 of each year. ()

04. Certification Renewal. Certifications may be renewed each year by payment of the annual renewal fee, provided that, every third year following the date of certification, the CET will need to attend a euthanasia training and pay the current training and certification fee prescribed by Section 014 of these rules. ()

05. Duties. The duties of a CET include, but are not limited to: ()

a. Preparing animals for euthanasia; ()

b. Accurately recording the dosages for drugs that are administered and amounts for drugs wasted; ()

c. Ordering supplies; ()

d. Maintaining the security of all controlled substances and other approved drugs; ()

e. Directly supervising probationary CET; ()

f. Reporting to the Board violations or suspicions of a violation of these rules or any abuse of drugs; ()

g. Humanely euthanizing animals; and ()

h. Proper and lawful disposal of euthanized animals and expired or unwanted drugs, other chemical agent or the containers, instruments and equipment used in the administration of approved drugs. ()

206. GROUNDS FOR DISCIPLINE -- CEAS AND CETs.

The Board may refuse to issue, renew, or reinstate the certification of a CEA or CET, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a CEA or CET, impose other forms of discipline, and enter into consent agreements and negotiated settlements with CEAs and CETs pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for any of the following reasons: ()

01. Failure to Carry Out Duties. Failure to carry out the duties of a CEA or CET. ()

02. Abuse of Chemical Substances. Abuse of any chemical substance by: ()

a. Selling or giving chemical substances away; or ()

b. Stealing chemical substances; or ()

c. The diversion or use of any chemical substances for other than legitimate euthanasia purposes; or ()

d. Abetting anyone in the foregoing activities. ()

03. Euthanizing of Animals Without Proper Supervision. Allowing uncertified individuals or probationary CETs to euthanize animals or personally euthanizing animals without proper supervision. ()

04. Administration of Approved Drugs Without Proper Supervision. Allowing uncertified individuals or probationary CETs to administer approved drugs or personally administering approved drugs without proper supervision. ()

05. Euthanizing of Animals Without Proper Certification. Allowing individuals or probationary CETs to euthanize animals or personally euthanizing animals without being properly certified to do so. ()

06. Fraud, Misrepresentation, or Deception. The employment of fraud, misrepresentation of a material fact, or deception by an applicant or certificate holder in securing or attempting to secure the issuance or renewal of a certificate. ()

07. Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public and includes, but is not limited to: ()

a. Working in conjunction with any agency or person illegally practicing as a CEA or CET; ()

b. Failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; ()

c. Euthanizing animals in a manner that endangers the health and welfare of the public. A CET shall not euthanize animals if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability; ()

d. Gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice as CETs in Idaho; ()

e. Intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and ()

f. Swearing falsely in any testimony or affidavits relating to practicing as a CEA or CET. ()

08. Conviction of Violating Any Federal or State Statute, Rule or Regulation. Conviction of a charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances. ()

09. Conviction of a Charge or Crime. Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in Idaho or any other state of one (1) or more of the following: ()

a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or ()

b. Any crime constituting or having as an element the abuse of any drug, including alcohol. ()

c. Any other criminal act that in any way is related to practicing as a CEA or CET as defined by Section 54-2103(8) and (9), Idaho Code. ()

10. Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in Board rules. ()

11. Improper Security for Approved Drugs. Failure to provide and maintain proper security for approved euthanasia and restraint drugs as outlined in Board rules. ()

12. Improper Storage of Equipment and Approved Drugs. Failure to properly store equipment or approved drugs as outlined in Board rules. ()

13. Improper Disposal of Approved Drugs and Equipment. Failure to properly dispose of approved

drugs and the containers, instruments and equipment used in their administration as outlined in Board rules. ()

14. Improper Labeling of Approved Drugs. Failure to properly label approved euthanasia and restraint drugs as outlined by Board rules. ()

15. Revocation, Suspension, Limitation or Restriction. The revocation, suspension, limitation, or restriction of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a CEA or CET in that state or jurisdiction on grounds other than nonpayment of the renewal fee. ()

16. Failure to Cooperate. ()

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder; or ()

b. Failure to comply with the terms of any order, negotiated settlement, or probationary agreement of the Board; or ()

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees. ()

17. Aiding and Abetting. Knowingly aiding or abetting an uncertified agency or person to practice as a CEA or CET. ()

18. Current Certification. Practicing as a CEA or CET without a current certification. ()

19. Improper Drug Preparation. Preparing approved drugs, contrary to manufacturer’s instructions. ()

20. Violation of any Law, Rules or Orders. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any provisions of the veterinary law and rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code, the Idaho Board of Pharmacy law and rules, or the Code of Federal Regulations. ()

207. INSPECTION DEFICIENCIES.

If there are inspection deficiencies with either a CEA or CET, a COHE member or the Board will document in writing areas for correction. The CEA or CET, or both, shall make corrections within the time period specified in the notice of deficiency, and correction will be verified by a COHE or Board member as recorded on the deficiency documentation. If the deficiency has not been corrected, the certification may be revoked by the Board, and the Idaho Board of Pharmacy will be notified. ()

208. -- 999. (RESERVED)

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

31.61.01 – RULES FOR THE MEASUREMENT OF STRAY CURRENT OR VOLTAGE (STRAY VOLTAGE RULES)

DOCKET NO. 31-6101-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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) 61-515 and 61-520 and 61-803 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 Idaho Public Utilities Commission initiated this rulemaking in compliance with [Executive Order No. 2020-01: Zero-Based Regulation](#), issued by Governor Little on January 16, 2020. Pursuant to Executive Order No. 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/rulemaking_templates/index.html. This is the Idaho Public Utilities Commission's rule chapter IDAPA 31.61.01 up for review in 2022.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 214-226](#).

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stephen Goodson at (208) 334-0323. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Public Utilities Commission web site at the following web address: www.puc.idaho.gov.

DATED this 9th day of August 2022.

Jan Noriyuki, Commission Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg. 8, Ste 201-A
Boise, ID 83714
P.O. Box 83720
(208) 334-0323 Office
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IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

31.81.01 – ENERGY CONSUMPTION REPORTING RULES

DOCKET NO. 31-8101-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 the Authority of the Electric and Natural or Manufactured Gas Consumption from Ground Water Pumping Act (hereinafter the Energy Consumption Act), Chapter 13, Title 62, Idaho Code, the Public Records Act Section 74-107(13), Idaho Code, and Executive Order No. 2020-01.

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 Idaho Public Utilities Commission initiated this rulemaking in compliance with [Executive Order No. 2020-01: Zero-Based Regulation](#), issued by Governor Little on January 16, 2020. Pursuant to Executive Order No. 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/rulemaking_templates/index.html. This is the Idaho Public Utilities Commission's rule chapter IDAPA 31.81.01 up for review in 2022.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, 227-229](#).

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: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stephen Goodson at (208) 334-0323. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Public Utilities Commission web site at the following web address: www.puc.idaho.gov.

DATED this 9th day of August 2022.

Jan Noriyuki
Commission Secretary
11331 West Chinden Blvd, Ste 201-A
Boise, ID 83714
(208) 334-0323
Secretary@puc.idaho.gov

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-2201 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the State Tax Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01: Zero-Based Regulation.

Sections 300-699 of these rules that were negotiated and previously included in this ZBR chapter rewrite, have been promulgated under companion docket 35-0101-2202 published in this bulletin.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under this docket number. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-4, page 47](#). The Tax Commission has held three public meetings, and all public comments received will be considered in the formulation and adoption of the pending rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian at (208) 334-6691).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022

DATED this October 5th, 2022.

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0101-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY.

In accordance with Sections 63-105 and 63-3039, Idaho Code, the State Tax Commission (Tax Commission) has promulgated rules implementing the provisions of the Idaho Income Tax Act. ()

001. SCOPE.

Section 63-3039, Idaho Code.

01. Scope. These rules will be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on income of all persons who derive income from Idaho sources or who enjoy benefits of Idaho residence. ()

02. Effective Date. To the extent allowed by statute, rules in this chapter will be applied on their effective date to all taxable years open for determining tax liability. ()

03. Closed Years or Issues. Taxable years closed by the statute of limitations remain closed and are not reopened by the promulgation, repeal or amendment of any rule. Issues resolved by the expiration of appeal time, a notice of deficiency determination, or a final decision of the Tax Commission will not be reopened by the promulgation, repeal, or amendment of any rule. ()

04. Transactions Before an Effective Date. A rule will not be applied to transactions occurring before its effective date in a case where, in the opinion of the Tax Commission, to do so would create an obvious injustice. ()

002. INCORPORATION BY REFERENCE (RULE 002).

These rules incorporate by reference the following documents, which may be obtained from the main office of the Tax Commission: ()

01. MTC Special Industry Regulations. These documents are found on the Multistate Tax Commission (MTC) Website at <http://www.mtc.gov/Uniformity/Adopted-Uniformity-Recommendations>, or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rules 580 and 581 of these rules. ()

02. MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This rule incorporates the MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions as adopted November 17, 1994. This document is found on the MTC Website at http://www.mtc.gov/uploadedFiles/Multistate_Tax_Commission/Uniformity/Uniformity_Projects/A_-_Z/FormulaforApportionmentofNetIncomeFinInst.pdf or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rule 582 of these rules. ()

003. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).

Section 63-3003, Idaho Code

01. Due Date. As used in these rules, due date means the date prescribed for filing without regard to extensions. ()

02. Mathematical Error. A mathematical error includes arithmetic errors and incorrect computations. ()

03. Sale. A sale is defined as a transaction in which title passes from the seller to the buyer, or when possession and the burdens and benefits of ownership are transferred to the buyer. A sale may have occurred even if the buyer does not have the right to possession until he partially or fully satisfies the terms of the contract. ()

04. Tax Home. For income tax purposes, the term tax home refers to the taxpayer's principal place of business, employment, station, or post of duty regardless of where he maintains his personal or family residence. A taxpayer domiciled or residing in Idaho with a permanent post of duty in another state is an Idaho resident for Idaho income tax purposes. However, he is not entitled to a deduction for travel expenses incurred in the other state since that is his tax home. ()

05. Terms. Terms not otherwise defined in the Idaho Income Tax Act or these rules will have the same meaning as is assigned to them by the Internal Revenue Code including Section 7701 relating to definitions of terms. ()

06. Wages. The term wages relates to all compensation for services performed for an employer regardless of the form of payment. ()

011. -- 014. (RESERVED)

015. INTERNAL REVENUE CODE (RULE 015).
Section 63-3004, Idaho Code

01. Interpretations. Interpretations of the Internal Revenue Code may be found in various sources. These sources include decisions of the Tax Court, Congressional Committee Reports, General Counsel Memoranda, Decisions of the Federal and State Courts on federal income tax issues and Treasury Regulations. These interpretations are adopted by this reference to the extent that they are not in conflict with or inconsistent with the Idaho Code or administrative rules. ()

02. Retroactive Amendments. For the purpose of determining federal taxable income, any retroactive amendments to the Internal Revenue Code that are enacted on or before the date found in Section 63-3004(1), Idaho Code, are applied retroactively to the extent allowed under federal law. ()

03. Tax Commission Granted Discretion in Determining Correctness of Tax Return. Discretion granted to the Secretary of the Treasury to determine or reallocate items of income or adjustments to income, deductions, expenses, credits or other subjects of taxation by the Internal Revenue Code may also be exercised by the Tax Commission and its authorized agents, employees and deputies to enforce and administer the Idaho Income Tax Act and these rules. ()

016. IDAHO GROSS INCOME (RULE 016).
Sections 63-3011 and 63-3030, Idaho Code

01. In General. Gross income means all income from whatever source derived, unless specifically excluded by the Internal Revenue Code. ()

02. Gross Income from Pass-Through Entities. Gross income includes an owner's share of a pass-through entity's gross income pursuant to sections 702(c) and 1366(c) of the Internal Revenue Code, and federal Treasury Regulation Section 1.61-13 (citing Part I, Subchapter J, Chapter 1 of the Internal Revenue Code). ()

03. Gross Income from Idaho Sources. Gross income from Idaho sources is that portion of total gross income derived from or related to sources within Idaho. Income derived from or related to sources within Idaho is determined pursuant to this rule and Rules 263 through 286 of these rules. ()

04. Idaho Source Gross Income from a Pass-Through Entity. ()

- a. Partnership. The amount of a partner's gross income from Idaho sources is: ()
 - i. The partner's distributive share of partnership gross income included in the partnership's apportionable income multiplied by the Idaho apportionment factor of the partnership; and ()
 - ii. The partner's distributive share of gross income allocated to Idaho. ()
- b. S Corporation. The amount of a shareholder's gross income from Idaho sources is: ()
 - i. The shareholder's pro rata share of the S corporation gross income included in the S corporation's apportionable income multiplied by the Idaho apportionment factor of the S corporation; and ()
 - ii. The shareholder's pro rata share of gross income allocated to Idaho. ()
- c. Trust or Estate. The Idaho source portion of the income that constitutes gross income pursuant to federal Treasury Regulation Section 1.61-13 and Part I, Subchapter J, Chapter 1 of the Internal Revenue Code, is the amount of such income that would be Idaho source if received directly by the individual. ()

05. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

017. TREATMENT OF THE SECTION 965 OF THE INTERNAL REVENUE CODE INCREASE IN SUBPART F INCOME AND RELATED EXCLUSIONS (RULE 017).

Section 63-3002, Idaho Code

Subpart F income as defined in Section 952, Internal Revenue Code, is gross income under Section 951(a), Internal Revenue Code, and included in a taxpayer's taxable income under the Internal Revenue Code. Idaho taxpayers must include the Section 965, Internal Revenue Code, increase in their subpart F income (Section 965(a) reduced by Section 965(c), Internal Revenue Code), when computing their Idaho taxable income regardless of how such income is reported to the Internal Revenue Service on the federal income tax form. ()

018. -- 024. (RESERVED)

025. TAXABLE YEAR AND ACCOUNTING PERIOD (RULE 025).

Section 63-3010, Idaho Code

01. In General. A taxpayer will file his Idaho return for the same taxable year as filed for federal income tax purposes. If a federal return is not filed, the taxable year will be the taxable year required by the Internal Revenue Code, any other period that may be required by law, or the calendar year. Taxable year generally corresponds to the taxpayer's annual accounting period unless a short-period return is required. ()

02. Change of Accounting Period. ()

a. If a taxpayer changes his accounting period for federal income tax purposes, he will make the same change for the same period for Idaho income tax purposes. If prior approval of the Commissioner of the Internal Revenue Service is required, a copy of that approval will accompany the Idaho short-period return. ()

b. If a change does not require prior approval of the Commissioner of the Internal Revenue Service, the change will be noted on the Idaho short-period return, along with a statement that no prior approval was required and the authority cited. ()

026. -- 029. (RESERVED)

030. RESIDENT (RULE 030).

Section 63-3013, Idaho Code

01. Resident. The term resident applies to individuals, estates, and trusts. ()

02. Domicile. The term domicile means the place where an individual has his true, fixed, permanent home and principal establishment, and where he intends to return when absent. An individual can have several residences or dwelling places, but he legally has only one domicile at a time. ()

a. Domicile, once established, is never lost until there is a concurrence of a specific intent to abandon an old domicile, an intent to acquire a specific new domicile, and the actual physical presence in a new domicile. ()

b. All individuals who have been domiciled in Idaho for the entire taxable year are residents for Idaho income tax purposes, even though they have actually resided outside Idaho during all or part of the taxable year, except as provided in Section 63-3013(2), Idaho Code. ()

c. Any individual meeting the safe harbor exception to residency status is either a nonresident or part-year resident. ()

d. The safe harbor exception to being a resident of Idaho does not apply to a servicemember or a servicemember's spouse domiciled in Idaho if the Servicemembers Civil Relief Act applies to the individual. ()

031. ALIENS (RULE 031).
Sections 63-3013, 63-3013A, and 63-3014, Idaho Code

01. Idaho Residency Status. For purposes of the Idaho Income Tax Act, an alien may be either a resident, part-year resident, or nonresident, except a nonresident alien as defined in Section 7701, Internal Revenue Code, will be a nonresident. ()

a. An alien will determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. ()

b. A nonresident alien as defined in Section 7701, Internal Revenue Code, is a nonresident for Idaho. If a nonresident alien has elected to be treated as a resident of the United States for federal income tax purposes, he will determine his Idaho residency status as provided in Paragraph 031.01.a., of this rule. ()

02. Filing Status. An alien will use the same filing status for the Idaho return as used on the federal return. If for federal income tax purposes a married alien files as a nonresident alien and does not elect to be treated as a resident, the married alien will use the filing status married filing separate on the Idaho return. ()

03. Copy of Federal Forms Required. In addition to the requirements set forth in Rule 800 of these rules, a nonresident alien will attach a copy of the following forms to his Idaho individual income tax return: ()

a. Form 8843 if filed with the IRS; ()

b. All Forms 1042-S received for the taxable year. ()

032. MEMBERS OF THE UNIFORMED SERVICES (RULE 032).
Section 63-3013, Idaho Code

01. Servicemembers Civil Relief Act. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that a servicemember will neither lose nor acquire a residence or domicile with regard to his income tax as a result of being absent or present in a state due to military orders. ()

02. Servicemember. A servicemember is defined to include any member of the uniformed services as that term is defined in 10 U.S.C. Section 101(a)(5). A member of the uniformed services includes: ()

a. A member of the armed forces, which includes a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard on active duty. It also includes a member of the National Guard who has been called to active service by the President of the United States or the Secretary of Defense of the United States for a period of more than thirty (30) consecutive days under 32 U.S.C. Section 502(f), for purposes of responding to a national emergency

declared by the President and supported by federal funds. ()

b. The commissioned corps of the National Oceanic and Atmospheric Administration in active service; and ()

c. The commissioned corps of the Public Health Service in active service. ()

03. Idaho Residency Status. ()

a. A servicemember does not become an Idaho resident for income tax purposes by reason of being present in Idaho solely in compliance with military orders. ()

b. A servicemember does not lose his status as an Idaho resident for income tax purposes by reason of being absent from Idaho solely in compliance with military orders. The safe harbor exception to being a resident as provided in Section 63-3013(2), Idaho Code, does not apply to a servicemember covered by the federal law. ()

c. If a servicemember is present in or absent from Idaho for reasons other than compliance with military orders, the standard analysis of residency under Sections 63-3013, 63-3013A, and 63-3014, Idaho Code, applies. ()

04. Military Service Compensation. ()

a. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that the military service compensation of a servicemember who is not domiciled in Idaho is not considered income from Idaho sources. ()

b. The military service compensation of a servicemember who is domiciled in Idaho is subject to Idaho income tax. However, Section 63-3022(h), Idaho Code, provides that compensation paid to a member of the United States Armed Forces for active-duty military service performed outside Idaho is deducted from taxable income in determining the member's Idaho taxable income. A member of the armed forces does not include the commissioned corps of the National Oceanic and Atmospheric Administration or the commissioned corps of the Public Health Service, unless they have been militarized by Presidential Executive Order under Title 42, United States Code. ()

05. Military Separation Pay. Military separation pay received for voluntary or involuntary separation from active military service is not considered military service compensation. Therefore, Subsection 032.04 of this rule does not apply. ()

a. Military separation pay is included in Idaho taxable income only if the recipient is domiciled in or residing in Idaho when the separation pay is received. ()

b. For purposes of this rule, a former active duty servicemember whose home of record at the time of separation from the military was a state other than Idaho is not deemed to be residing in Idaho if he moves from Idaho within thirty (30) days from the date of separation from active duty. ()

06. Nonmilitary Income. All Idaho source income earned by a servicemember is subject to Idaho taxation except as expressly limited by the Idaho Income Tax Act and these rules. ()

07. Spouses of Servicemembers. Beginning on January 1, 2009, Section 511 of the Servicemembers Civil Relief Act also applies to the spouse of a servicemember. ()

a. If a spouse of a servicemember has the same domicile or state of residency for tax purposes as the servicemember, the spouse of the servicemember does not become an Idaho resident for income tax purposes by reason of being present in Idaho solely to be with the servicemember who is stationed in Idaho. ()

b. If a spouse of a servicemember and the servicemember are both Idaho residents for income tax

purposes, the spouse of the servicemember does not lose his status as an Idaho resident for income tax purposes by reason of being absent from Idaho solely to be with the servicemember who is stationed outside of Idaho. ()

c. If the spouse is not a resident of Idaho for income tax purposes because of the reason stated in Paragraph 032.07.a. of this rule, income for services performed in Idaho by the spouse will not be deemed to be income from Idaho sources. ()

033. AMERICAN INDIANS (RULE 033).
Section 63-3022S, Idaho Code

01. Idaho Residency Status. An American Indian must determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. Membership in an Indian tribe does not affect that individual's Idaho residency status. ()

02. Gambling Winnings. ()

a. Amounts received from gambling on an Indian reservation by an enrolled member who lives on the Indian reservation are not subject to Idaho tax. ()

b. Amounts received from gambling on an Indian reservation by an enrolled member who lives off the Indian reservation in Idaho are subject to Idaho tax. ()

03. Per Capita Distributions. ()

a. Per capita distributions paid by an Indian tribe to an enrolled member who lives on the Indian reservation are tax-exempt by Idaho. ()

b. Per capita distributions paid by an Indian tribe to an enrolled member who resides off the reservation in Idaho are subject to Idaho tax. ()

034. ESTATE -- RESIDENCY STATUS (RULE 034).
Section 63-3015, Idaho Code

01. Resident Estates. If the estate is other than an estate of a decedent, it is treated as a resident estate if the person for whom the estate was created is a resident of Idaho. ()

035. -- 039. (RESERVED)

040. PART-YEAR RESIDENT (RULE 040).
Section 63-3013A, Idaho Code

01. Temporary or Transitory Purpose. For purposes of this rule, an individual is not residing in Idaho if he is present in Idaho only for a temporary or transitory purpose. Likewise, an individual is not residing outside Idaho merely by his temporary or transitory absence from Idaho. ()

a. The length of time in Idaho is only one factor in determining whether an individual is present for other than a temporary or transitory purpose. Other factors to be considered include business activity or employment conducted in Idaho, banking and other financial dealings taking place in Idaho, and family and social ties in Idaho. In general, an individual is present for other than a temporary or transitory purpose if his stay is related to a significant business, employment or financial purpose or the individual maintains significant family or social ties in Idaho. ()

b. An individual is present in Idaho only for a temporary or transitory purpose if he does not engage in any activity or conduct in Idaho other than that of a vacationer, seasonal visitor, tourist, or guest. ()

c. Presence in Idaho for ninety (90) days or more during a taxable year is presumed to be for other than a temporary or transitory purpose. To overcome the presumption, the individual must show that his presence was

consistent with that of a vacationer, seasonal visitor, tourist or guest. ()

02. Place of Abode. An individual who owns a home in Idaho will not be treated as having a place of abode at that residence if the individual does not have the right to immediately occupy that residence. This definition does not apply for purposes of the federal foreign income exclusion and only applies for purposes of Sections 63-3013 and 63-3013A, Idaho Code. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

041. -- 044. (RESERVED)

045. NONRESIDENT (RULE 045).
Sections 63-3014, 63-3026A, Idaho Code

01. Traveling Salesmen. ()

a. A nonresident salesman who works in Idaho is subject to Idaho taxation regardless of the location of his post of duty or starting point. ()

b. If an individual is paid on a mileage basis, the gross income from sources within Idaho includes that portion of the total compensation for personal services that the number of miles traveled in Idaho bears to the total number of miles traveled within and without Idaho. If the compensation is based on some other measure, such as hours, the total compensation for personal services must be apportioned between Idaho and other states and foreign countries in a manner that allocates to Idaho the portion of total compensation reasonably attributable to personal services performed in Idaho. See Rule 270 of these rules. ()

02. Motor Carrier Employees Covered by Title 49, Section 14503, United States Code.
Compensation paid to an interstate motor carrier employee who has regularly assigned duties in more than one state is subject to income tax only in the employee's state of residence. A motor carrier employee is defined in Title 49, Section 31132(2), United States Code, and includes: ()

a. An operator, including an independent contractor, of a commercial motor vehicle; ()

b. A mechanic; ()

c. A freight handler; and ()

d. An individual, other than an employer, who in the course of his employment directly affects commercial motor vehicle safety. Employees of the United States, a state, or a local government are not included. Employer, as used in this rule, means a person engaged in business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it. See Title 49, Section 31132(3), United States Code. ()

03. Water Carrier Employees Covered by Title 46, Section 11108, United States Code.
Compensation paid to a water carrier employee is subject to income tax only in the employee's state of residence if such employee: ()

a. Is engaged on a vessel to perform assigned duties in more than one (1) state as a pilot licensed under Title 46, Section 7101, or licensed or authorized under the laws of a state; or ()

b. Performs regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one (1) state. ()

04. Air Carrier Employees Covered by Title 49, Section 40116(f), United States Code.
Compensation paid to an air carrier employee who has regularly assigned duties on aircraft in more than one state is subject to the income tax laws of only: ()

- a. The employee's state of residence, and ()
- b. The state in which the employee earns more than fifty percent (50%) of the pay from the air carrier. ()

05. Rail Carrier Employees Covered by Title 49, Section 11502, United States Code. Compensation paid to an interstate rail carrier employee who performs regularly assigned duties on a railroad in more than one (1) state is subject to income tax only in the employee's state of residence. ()

06. Pension Income Covered by Title 4, Section 114, United States Code. Pension income, including certain guaranteed payments made to a retired partner of a partnership, per Title 4, Section 114(b)(1)(I), United States Code, is subject to income tax only in the individual's state of residence or domicile. ()

046. -- 074. (RESERVED)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).

Section 63-3024, Idaho Code

The tax rates applied to the Idaho taxable income of an individual, trust or estate are listed at <https://tax.idaho.gov/indrate>. The maximum tax rate as listed for the applicable taxable year applies in computing the tax attributable to the S corporation stock held by an electing small business trust. ()

076. -- 077. (RESERVED)

078. TAX ON TRUSTS -- ELECTING SMALL BUSINESS TRUSTS (RULE 078).

Section 63-3024, Idaho Code

01. In General. The special rules for taxation of electing small business trusts as provided in Section 641, Internal Revenue Code, will apply for purposes of computing the Idaho income tax. These rules include the following: ()

a. The portion of an electing small business trust that consists of stock in one (1) or more S corporations will be treated as a separate trust. ()

b. The tax on the separate trust will be determined with the following modifications from the usual rules for taxing trusts: ()

i. The only items of income, loss, deduction, or credit to be taken into account are the items required to be taken into account as an S corporation shareholder under Section 1366, Internal Revenue Code, and any gain or loss from the disposition of stock in an S corporation. ()

ii. As provided in federal Treasury Regulations, administrative expenses will be taken into account to the extent allocable to the items described in Subparagraph 078.01.b.i. ()

iii. A deduction or credit will be allowed only for an amount described in this paragraph. No item described in this paragraph will be apportioned to any beneficiary. ()

c. A capital loss deduction provided by Section 1211(b), Internal Revenue Code, will be allowed only to the extent of capital gains. ()

079. -- 104. (RESERVED)

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (RULE 105).

Section 63-3022, Idaho Code. The following must be added by all taxpayers in computing Idaho taxable income. ()

01. Interest and Dividend Income Exempt From Federal Taxation. Certain interest and dividend

income that is exempt from federal income tax must be added. ()

a. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, must be prorated between the Idaho and non-Idaho interest income as provided in Subsections 105.04.b.i. and 105.04.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income must be offset by the expenses prorated to that interest income. The allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets must be attached to the return. ()

i. Expenses prorated to Idaho state and municipal interest income are based on the ratio of Idaho state and municipal interest income to total state and municipal interest income. ()

ii. Expenses prorated to non-Idaho state and municipal interest income are based on the ratio of non-Idaho state and municipal interest income to total state and municipal interest income. ()

02. Special First-Year Depreciation Allowance. The amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes must be added. ()

106. (RESERVED)

107. ADJUSTMENTS TO TAXABLE INCOME -- ADJUSTMENTS REQUIRED ONLY OF TAXPAYERS REPORTING NONBUSINESS INCOME (RULE 107).

Section 63-3027(a)(4), Idaho Code. All deductions relating to the production of nonbusiness income will be allocated with the income produced. ()

108. -- 114. (RESERVED)

115. INTEREST EXPENSE OFFSET RELATED TO TAX-EXEMPT INTEREST INCOME (RULE 115).

Section 63-3022M, Idaho Code

01. In General. The interest expense offset provided by Section 63-3022M, Idaho Code, is a separate and distinct adjustment from provisions in the Internal Revenue Code that disallow interest expense related to federal tax-exempt interest. ()

a. If a taxpayer owns an interest in a pass-through entity, that entity's tax-exempt income is to also be included to the extent of the taxpayer's interest. ()

b. Interest income that is only partially exempt for federal purposes is not included. Also, expenses related to tax-exempt interest income such as adjustments provided by Sections 265 and 291, Internal Revenue Code, are not included. ()

116. -- 119. (RESERVED)

120. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (RULE 120).

Section 63-3022, Idaho Code. The following are allowable subtractions to all taxpayers in computing Idaho taxable income. ()

01. State and Local Income Tax Refunds. State and local income tax refunds included in taxable income may be subtracted, unless the refunds have already been subtracted pursuant to Section 63-3022(a), Idaho Code. ()

02. Idaho Net Operating Loss. An S corporation or a partnership that incurs a loss is not entitled to claim a net operating loss deduction. The loss is passed through to the shareholders and partners who may deduct the loss. ()

03. Income Not Taxable by Idaho. Income exempt from taxation by Idaho includes the following: ()

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and may not be subtracted from taxable income. ()

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho a subtraction is allowed for each lottery prize that is less than six hundred dollars (\$600). If a prize equals or exceeds six hundred dollars (\$600), no subtraction is allowed. The full amount of the prize is included in income. ()

c. Certain income from loss recoveries. See Section 63-3022R, Idaho Code. ()

04. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. The adjustments required by this subsection do not apply to property acquired after 2007 and before 2010. ()

a. Depreciation. The amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes may be subtracted. ()

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions apply in computing the Idaho capital loss allowed. ()

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, a subtraction is allowed for the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. ()

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, the federal gain and the Idaho loss must be added together and the total may be subtracted. For example, if a taxpayer has a federal gain of five thousand dollars (\$5,000) and an Idaho loss of four thousand dollars (\$4,000), the amount subtracted would be nine thousand dollars (\$9,000). ()

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, the difference between the federal and Idaho losses may be subtracted. For example, if a taxpayer has a federal loss of three hundred dollars (\$300) and an Idaho loss of five hundred dollars (\$500), the amount subtracted would be two hundred dollars (\$200). ()

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars (\$6,000) and an Idaho capital loss of eight thousand dollars (\$8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars (\$3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars (\$2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars (\$1,000) and an Idaho deductible capital loss of three thousand dollars (\$3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars (\$2,000) in computing Idaho taxable income. ()

121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (RULE 121).

Section 63-3022, Idaho Code

01. Income Not Taxable by Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax if included in taxable income. Income exempt from taxation by Idaho includes the following: ()

a. Certain income earned by American Indians. ()

b. Retirement payments received pursuant to the old Teachers' Retirement System. Prior to its repeal on July 1, 1967, the old Teachers' Retirement System was codified at Title 33, Chapter 13, Idaho Code. Teachers who were employed by the state of Idaho and who retired on or after January 1, 1966, generally do not qualify for this exemption. Teachers who were not state employees and who retired on or after January 1, 1968, do not qualify. Teachers receiving benefits pursuant to the Public Employees' Retirement System, Title 59, Chapter 13, Idaho Code, do not qualify for the exemption. No exemption is provided for amounts received from other states, school districts outside Idaho, or any other source if the proceeds do not relate to teaching performed in Idaho. ()

02. Standard or Itemized Deduction. If itemized deductions are limited pursuant to Section 68, Internal Revenue Code, the amount of state and local income or general sales taxes added back will be computed by dividing the amount of itemized deductions that are allowed to the taxpayer after all federal limitations by total itemized deductions before the Section 68 limitation. ()

03. Unused Net Operating Losses of Estates and Trusts. An unused net operating loss carryover remaining on termination of an estate or trust is allowed to the beneficiaries succeeding to the property of the estate or trust. The carryover amount is the same in the hands of the beneficiaries as in the hands of the estate or trust. The first taxable year of the beneficiaries to which the net operating loss is to be carried is the taxable year of the beneficiary in which the estate or trust terminates. No part of a net operating loss incurred by an estate or trust can be carried back by a beneficiary, even if the estate or trust had no preceding taxable years eligible for a carryback. For purposes of determining the number of years to which a loss may be carried over by a beneficiary, the last taxable year of the estate or trust and the first taxable year of the beneficiary to which a loss is carried over each constitute a taxable year. ()

122. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO CORPORATIONS (RULE 122).
Sections 63-3022 and 41-3821, Idaho Code

01. Stock Insurance Subsidiary Dividends or Distributions. ()

a. As provided in Section 41-3821, Idaho Code, a mutual insurance holding company or an intermediate holding company is to subtract the amount received as a dividend or distribution from a stock insurance subsidiary. ()

b. The deduction allowed by Section 41-3821, Idaho Code, is not allowed if the stock insurance subsidiary's Idaho premium tax liability for the preceding taxable year is less than the stock insurance subsidiary would have paid in Idaho income tax had it been subject to Idaho income taxation for that year. The Idaho premium tax liability is the amount of total premium taxes less total premium tax credits allowed. The Idaho income tax it would have paid is to be computed as provided by Section 63-3027, Idaho Code, net of any applicable income tax credits. ()

c. The taxpayer claiming the deduction is to include in its Idaho income tax return for the year the deduction is claimed information that it is entitled to the deduction. Such information is to include the amount of the stock insurance subsidiary's Idaho premium tax for the preceding taxable year and the amount of Idaho income tax it would have paid for such year. ()

123. -- 124. (RESERVED)

125. ADJUSTMENTS TO TAXABLE INCOME -- BONUS DEPRECIATION ON PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE DECEMBER 31, 2007, OR AFTER DECEMBER 31, 2009 (RULE 125).

Section 63-3022O, Idaho Code

01. In General. Section 63-3022O, Idaho Code, requires that when computing Idaho taxable income, the amount of the adjusted basis of depreciable property, depreciation, and gains and losses from the sale, exchange, or other disposition of depreciable property acquired after September 10, 2001, and before December 31, 2007, or acquired after December 31, 2009, must be computed without regard to bonus depreciation allowed by Section 168(k), Internal Revenue Code. To meet this requirement, a taxpayer must be consistent in making the Idaho adjustments required for all the taxable years in which federal bonus depreciation is claimed. The adjustments required by this rule do not apply to property acquired after 2007 and before 2010. ()

02. Depreciation. ()

a. If a taxpayer makes the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, in the subsequent taxable years the taxpayer is entitled to the Idaho subtractions for the additional depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation claimed for federal income tax purposes. ()

b. If a taxpayer fails to make the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, the taxpayer is not entitled to claim the Idaho subtractions for additional depreciation in subsequent taxable years. In such instances, claiming an Idaho subtraction for additional depreciation when the first year Idaho addition was not claimed constitutes computing depreciation with regard to Section 168(k), Internal Revenue Code, which is specifically prohibited in Section 63-3022O(1), Idaho Code. For example, the Idaho addition is required for a taxable year when the bonus depreciation is claimed even though the taxpayer may be limited in claiming a passive loss from a pass-through entity in which the bonus depreciation arose. If the bonus depreciation is not added back in that taxable year, the Idaho subtractions are not allowed in the subsequent taxable years. ()

c. The Idaho adjustments are required in all taxable years in which the taxpayer has an Idaho filing requirement or is a member of a combined group of corporations in which at least one member has an Idaho filing requirement. If the taxpayer is not required to file an Idaho income tax return for one (1) or more years in which depreciation may be claimed, the taxpayer may claim the Idaho adjustment in the taxable years in which an Idaho return is filed if all such taxable years are treated consistently. ()

d. Example. A corporation transacted business in California and Oregon during taxable year 2003. In 2004, the taxpayer began transacting business in Idaho and was required to file an Idaho corporation income tax return for that year. On the federal return filed for 2003, the taxpayer claimed bonus depreciation for assets placed in service that year. Because the taxpayer was not required to file an Idaho corporation income tax return for 2003, there was no Idaho bonus depreciation addition required of the taxpayer. In 2004, the second year of depreciation for the assets placed in service in 2003, the taxpayer was required for Idaho income tax purposes to compute depreciation on the assets as if bonus depreciation had not been claimed. The difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes for 2004 would be allowed to the taxpayer as an Idaho subtraction since the taxpayer was required to file an Idaho corporation income tax return for that year. Assuming the taxpayer files an Idaho corporation income tax return for the remaining years when depreciation on the assets is allowed, the taxpayer will be allowed the Idaho subtraction in those years for the difference in the Idaho and federal depreciation amounts. If the corporation transacted business in Idaho during 2003 only, the return filed for that year should reflect the Idaho addition for the difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes, even though the subtractions will not apply in subsequent years. ()

126. -- 127. (RESERVED)

128. IDAHO ADJUSTMENTS -- PASS-THROUGH ENTITIES (RULE 128).

01. In General. An adjustment to a partnership, S corporation, estate or trust allowed or required by Idaho statute generally is claimed on the income tax returns of the partners, shareholders, or beneficiaries of the entity. ()

a. Partnerships. An adjustment passes through to a partner based on that partner's distributive share of

partnership profits. ()

b. S Corporations. An adjustment passes through to a shareholder based on that shareholder's pro rata share of income or loss. ()

c. Estates and Trusts. An adjustment passes through to a beneficiary in the same ratio that income is allocable to that beneficiary. ()

02. Limitations. Deductions claimed on a partner's, shareholder's, or beneficiary's tax return may not exceed the limitations imposed by statute or rule. ()

03. Different Taxable Year Ends. If a pass-through entity has a taxable year end different from that of a partner, shareholder, or beneficiary, the adjustment is to be claimed in the same taxable year that income or loss from that entity is reported for federal income tax purposes. ()

04. Information Provided by a Pass-Through Entity. The pass-through entity will prepare and distribute to each partner, shareholder, or beneficiary a schedule detailing the proportionate share of each adjustment. Copies of these schedules is to be attached to the pass-through entity's Idaho income tax return or information return for the taxable year that the adjustment is allowed or required. ()

05. Pass-Through Entities That Pay Tax. Generally, a pass-through entity is to report the same Idaho adjustments as those allowed to the individual partner, shareholder, or beneficiary for whom the pass-through entity is paying the tax. However, certain deductions that may be allowed to the individual if reporting and paying the tax is not allowed to the pass-through entity. ()

129. (RESERVED)

130. DEDUCTION OF CERTAIN RETIREMENT BENEFITS (RULE 130).
Section 63-3022A, Idaho Code

01. Qualified Benefits. Subject to limitations, the following benefits qualify for the deduction: ()

a. Retirement annuities paid to a retired civil service employee. For purposes of this deduction a retired civil service employee is an individual who is receiving retirement annuities paid under the Civil Service Retirement System, the Foreign Service Retirement and Disability System, or the offset programs of these systems. An individual is entitled to benefits from this retirement system only if he established eligibility prior to 1984. Retirement annuities paid to a retired federal employee under the Federal Employees Retirement System generally do not qualify for the deduction. Retirement annuities received under the Federal Employees Retirement System by a retiree previously covered under the Civil Service Retirement System qualify to the extent the retiree establishes the portion of the annuity attributable to coverage under the Civil Service Retirement System. ()

b. Retirement benefits paid as a result of participating in the firemen's retirement fund of the state of Idaho as authorized by Title 72, Chapter 14, Idaho Code. A fireman is entitled to benefits from this fund only if he established eligibility as a paid fireman prior to October 1, 1980. Retirement benefits paid out of the public employee's retirement system do not qualify for the deduction. ()

c. Retirement benefits paid to a retired Idaho city police officer: ()

i. By a city or its agent in regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by a city in this state; or ()

ii. In regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by the public employee retirement system of Idaho; or ()

iii. By the public employee retirement system of Idaho to a retired police officer in regard to Idaho employment not included in the federal social security retirement system; or ()

iv. An unremarried widow or widower of a person described in Subparagraph 130.01.c.i., 130.01.c.ii., or 130.01.c.iii. of this rule. ()

d. Retirement benefits paid by the United States Government to a retired member of the military services. ()

02. Unremarried Widow or Widower. An unremarried widow or widower of a retired civil service employee, retired policeman, retired fireman, or retired member of the military services, who is sixty-five (65) or older, or sixty-two (62) and disabled, is eligible for the deduction, even though the deceased spouse was not eligible at the time of death. In this situation, the amount of the retirement benefits that can be considered for the deduction for the taxable year of the spouse's death is limited to the benefits paid to the spouse as a widow or widower. ()

03. Married Individuals Filing Separate Returns. Married individuals who elect to file married filing separate are not entitled to the deduction allowed by Section 63-3022A, Idaho Code. ()

04. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

131. -- 139. (RESERVED)

140. DEDUCTION FOR ENERGY EFFICIENCY UPGRADES (RULE 140).
Section 63-3022B, Idaho Code

Siding is not considered an energy efficiency upgrade. If a layer of insulation is placed beneath siding, the cost of the insulation is deductible if it otherwise qualifies. If the siding consists of an outer shell for protection against the weather and an inner layer of insulating material, the insulating material qualifies if the cost is separately identified by the seller. ()

141. -- 149. (RESERVED)

150. DEDUCTION FOR ALTERNATIVE ENERGY DEVICES (RULE 150).
Section 63-3022C, Idaho Code

01. Qualifying Residence. The deduction applies only to a residence of an individual and does not apply to rental housing, unless the renter, rather than the owner, installs and pays for the device. ()

02. Converted Rental Unit. If a residence served by an alternative energy device is converted by the owner from a rental unit to his residence, the owner is entitled to any remaining allowable deduction for the year of the conversion based on the portion of the year that the residence served as his residence. For each subsequent year, the owner is entitled to the full amount of the allowable deduction for that year assuming the residence continues to be the owner's residence. ()

03. Destruction of Wood Burning Stove. The wood burning stove that does not meet the environmental protection agency requirements for certification is to be surrendered to the Department of Environmental Quality no later than thirty (30) days from the date of purchase of the qualifying alternative energy device. Failure to surrender the wood burning stove within the thirty (30) day period will result in the new device failing to qualify as an alternative energy device. The thirty (30) day period may be extended only if the taxpayer can show good cause for the delay. ()

151. -- 169. (RESERVED)

170. IDAHO CAPITAL GAINS DEDUCTION -- IN GENERAL (RULE 170).
Section 63-3022H, Idaho Code

01. Losses From Nonqualified Property. Losses from property not qualifying for the Idaho capital gains deduction may not be netted against gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. ()

02. Losses From Qualified Property. ()

a. Losses from property qualifying for the Idaho capital gains deduction are netted against gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. ()

b. A capital loss carryover from property qualifying for the Idaho capital gains deduction will be netted against current year gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. If a taxpayer has a capital loss carryover consisting of qualified and nonqualified property, the qualified capital loss carryover is the proportion that the qualified capital loss bears to the total capital loss shown on the return in the prior year multiplied by the capital loss carryover. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

171. IDAHO CAPITAL GAINS DEDUCTION -- QUALIFIED PROPERTY (RULE 171).
Section 63-3022H, Idaho Code

01. Gain from Forfeited Rights and Payments. Gain attributable to a cancellation, lapse, expiration, or other termination of a contract right or obligation does not qualify for the Idaho capital gains deduction. This includes any gain from the lapse of an option or from forfeited earnest money, down payment, or similar payments, related to otherwise qualifying property. ()

02. Timber. As used in Section 63-3022H(3)(e), Idaho Code, qualified timber grown in Idaho includes: ()

a. Standing timber held as investment property that is a capital asset pursuant to Section 1221, Internal Revenue Code; and ()

b. Cut timber if the taxpayer elects to treat the cutting of timber as a sale or exchange pursuant to Section 631(a), Internal Revenue Code. ()

05. Nonqualifying Property. Nonqualifying property includes: ()

a. Real or tangible personal property not having an Idaho situs. ()

b. Tangible personal property not used by a revenue-producing enterprise. ()

c. Intangible property. Some examples of intangible property include, but are not limited to: ()

i. Stocks and bonds; ()

ii. Interests in a partnership (except for interests identified in Section 63-3022H(3)(f)), Idaho Code, LLC, or S corporation. ()

03. Holding Periods. ()

a. In General. To qualify for the capital gains deduction, property otherwise eligible for the Idaho capital gains deduction must be held for specific time periods. The holding periods for Idaho purposes generally follow Sections 1223 and 735, Internal Revenue Code. ()

b. Exception to the Tacked-On Holding Period. The holding period of property given up in a tax-free exchange is not tacked on to the holding period of the property received if the property given up was nonqualifying property based on the requirements of Section 63-3022H(3), Idaho Code. ()

c. Installment Sales. The determination of whether the property meets the required holding period is made using the laws applicable for the year of the sale. If the required holding period is not met in the year of sale, the gain is not from qualified property. The classification as nonqualified property will not change even though the gain may be reported in subsequent years when a reduced holding period is applicable. ()

04. Holding Periods of S Corporation and Partnership Property. ()

a. Property Contributed by a Shareholder to an S Corporation or by a Partner to a Partnership. A shareholder or partner who contributes otherwise qualified property to an S corporation or partnership may treat the pass-through gain on the sale of that property as a qualifying Idaho capital gain if the property has, in total, been held by the shareholder or partner and the S corporation or partnership for the required holding period. The noncontributing shareholders or partners may treat the pass-through gain as a qualifying Idaho capital gain only if the S corporation or partnership held the property for the required holding period. ()

b. Property Distributed by an S Corporation or Partnership. ()

i. Distributions. For purposes of this rule, the holding period of property received in a distribution from a partnership or from an S corporation other than in liquidation of stock includes the time the entity held the property. ()

05. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

172. IDAHO CAPITAL GAINS DEDUCTION -- REVENUE-PRODUCING ENTERPRISE (RULE 172).
Section 63-3022H, Idaho Code

01. Nonqualifying Activities. Examples of activities that do not qualify as a revenue-producing enterprise include the following: ()

a. Retail sales; ()

b. Professional or managerial services; ()

c. Repair services or other service related activities; ()

d. Transportation activities, unless they are an integral part of the taxpayer's qualifying activity; ()

e. Telephone, cable, and internet services; ()

f. Agricultural services, such as horse training, veterinarian services, and crop dusting. ()

02. Multiple Activities. If a business is engaged in both revenue-producing and nonrevenue-producing activities, tangible personal property must be used in the revenue-producing activity to qualify for the Idaho capital gains deduction. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

173. IDAHO CAPITAL GAINS DEDUCTION -- PASS-THROUGH ENTITIES (RULE 173).
Section 63-3022L, Idaho Code

01. In General. ()

a. Qualified property held by an S corporation, partnership, trust, or estate may be eligible for the Idaho capital gains deduction. The deduction is allowed only on the return of an individual shareholder, individual partner, or individual beneficiary. ()

b. Partnerships, S corporations, trusts, and estates that pay the tax for an electing individual pursuant to Section 63-3022L, Idaho Code, are not allowed to claim a capital gains deduction. ()

02. Multistate Entities. A nonresident shareholder of an S corporation or a nonresident partner of a partnership required to allocate and apportion income as set forth in Section 63-3027, Idaho Code, is to compute his Idaho capital gains deduction on his interest in income of that portion of the qualifying capital gains allocated or

apportioned to Idaho. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

a. An Idaho resident partner must report all partnership income to Idaho. As a result, his share of partnership income, including any capital gain included in apportionable income, is not limited by the apportionment factor of the partnership. ()

b. Gains that cannot be traced back to the sale of Idaho qualifying property do not qualify for the Idaho capital gains deduction. ()

174. -- 179. (RESERVED)

180. DEDUCTION FOR DONATION OF TECHNOLOGICAL EQUIPMENT (RULE 180).

Section 63-3022J, Idaho Code

01. Fair Market Value. Fair market value is determined pursuant to Section 170, Internal Revenue Code. ()

02. Pass-Through of Deduction. ()

a. The deduction may not exceed the amount of pass-through income less deductions of the entity making the contribution. ()

181. -- 184. (RESERVED)

185. ADOPTION EXPENSES (RULE 185).

Section 63-3022I, Idaho Code

01. Ineligible Expenses. ()

a. The costs associated with an unsuccessful attempt to adopt a child do not qualify for the deduction. ()

b. A deduction is not allowed for expenses incurred in violation of state or federal law or for a surrogate parenting arrangement. ()

02. Financial Assistance. Eligible expenses are to be reduced by amounts received as financial aid for the adoption, or from a grant pursuant to a federal, state, or local program. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

186. -- 189. (RESERVED)

190. IDAHO MEDICAL SAVINGS ACCOUNTS (RULE 190).

Section 63-3022K, Idaho Code

Health benefits paid with pretax contributions, such as those paid pursuant to a salary reduction agreement, are considered paid by the employer and do not qualify as an expense paid by the employee. Health benefits paid with after-tax dollars are considered paid by the employee and qualify as an expense paid by the employee. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

191. -- 192. (RESERVED)

193. HEALTH INSURANCE COSTS AND LONG-TERM CARE INSURANCE (RULE 193).

Sections 63-3022P and 63-3022Q, Idaho Code

01. Costs Deducted or Accounted For. Deductions are not allowed for health insurance costs and

premiums paid for long-term care insurance that are otherwise deducted or accounted for. Health insurance costs and premiums paid for long-term care insurance that are otherwise deducted or accounted for include amounts: ()

- a. Paid out of an Idaho medical savings account; ()
- b. Paid through a cafeteria plan or other salary-reduction arrangement when these costs are paid out of pretax income; or ()
- c. Deducted as business expenses. ()

194. (RESERVED)

195. LOSS RECOVERIES (RULE 195).

Section 63-3022R, Idaho Code

No deduction is allowed for recovery of an amount not included in federal taxable income of the current year. No deduction is allowed to the extent the loss recovered previously reduced Idaho taxable income. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

196. -- 199. (RESERVED)

200. NET OPERATING LOSS -- CORPORATIONS (RULE 200).

Section 63-3021, Idaho Code

01. Unitary Taxpayers. Each corporation included in a unitary group must determine its respective share of the Idaho apportioned net operating loss incurred by the unitary group for the taxable year. A corporation's share of the net operating loss is computed using its Idaho apportionment factor for the year of the loss. The corporation must add or subtract its nonbusiness income or loss allocated to Idaho to its share of the apportioned loss. ()

02. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

201. NET OPERATING LOSS CARRYBACKS AND CARRYOVERS (RULE 201).

Section 63-3022(c), Idaho Code

01. Definitions for Purposes of Net Operating Loss Carrybacks and Carryovers. ()

a. The term net operating loss deduction means the sum of the Idaho net operating losses carried to another taxable year and subtracted in computing Idaho taxable income. ()

b. A net operating loss is absorbed when it has been fully subtracted from Idaho taxable income, as modified by Section 63-3021, Idaho Code. ()

02. Adjustments to Net Operating Losses. ()

a. Adjustments to a net operating loss will be determined pursuant to the law applicable to the loss year. ()

b. Adjustments to a net operating loss deduction may be made even though the loss year is closed due to the statute of limitations, but will not result in any tax due or refund for the closed taxable years. ()

03. Adjustments in Carryback and Carryover Years. ()

a. Adjustments to income, including modifications pursuant to Section 63-3021, Idaho Code, in a carryback or carryover year must be made for purposes of determining, how much, if any, of the net operating loss may be carried over to subsequent years. ()

b. Adjustments are made pursuant to the law applicable to the carryback or carryover year. ()

c. Adjustments may be made even though the year is closed due to the statute of limitations, but will not result in any tax due or refund for the closed taxable years. ()

04. Net Operating Loss Carrybacks Application. ()

a. The net operating loss carryback allowed for the entire carryback period may not exceed one hundred thousand dollars (\$100,000) per taxpayer. Each corporation that has a net operating loss and is included in a unitary group is limited to a maximum carryback of one hundred thousand dollars (\$100,000). ()

b. The sum of net operating loss deductions must not exceed the amount of the net operating loss incurred. ()

c. For taxable years beginning prior to January 1, 2013, if the taxpayer makes a valid election to forego the carryback period as provided in Subsection 201.05, the provisions of Subsection 201.04.c. do not apply and the net operating loss carryover is applied as follows: ()

i. For net operating losses incurred in taxable years beginning on and after January 1, 2000, but prior to January 1, 2013, the net operating loss is subtracted in the twenty (20) succeeding taxable years, in order, until the loss is absorbed. ()

d. For taxable years beginning prior to January 1, 2013, if the taxpayer fails to make a valid election to forego the carryback period, the net operating loss must be carried back. If a carryback year is closed due to the statute of limitations, the net operating loss carryback may not result in a refund for the closed taxable year. ()

e. For net operating losses incurred in taxable years beginning on and after January 1, 2013, if an amended return carrying back the loss is filed within one (1) year of the end of the taxable year of the net operating loss, the net operating loss is applied to the second preceding taxable year and if not absorbed, the difference is applied to the first preceding taxable year. The loss not absorbed in the carryback years is subtracted in the twenty (20) succeeding taxable years, in order, until absorbed. ()

05. Timing and Method of Electing to Forego Carryback For Taxable Years Beginning Before January 1, 2013. ()

a. Net operating losses incurred in taxable years beginning on or after January 1, 2010. The election must be made by the due date of the loss year return, including extensions. Once the completed return is filed, the extension period expires. Unless otherwise provided in the Idaho return or in an Idaho form accompanying a return for the taxable year, the election referred to in this Subsection may be made by attaching a statement to the taxpayer's income tax return for the taxable year of the loss. The statement must contain the following information: ()

i. The name, address, and taxpayer's social security number or employer identification number; ()

ii. A statement that the taxpayer makes the election pursuant to Section 63-3022(c)(1), Idaho Code, to forego the carryback provision; and ()

iii. The amount of the net operating loss. ()

b. Attaching a copy of the federal election to forego the federal net operating loss carryback to the Idaho income tax return for the taxable year of the loss does not constitute an election for Idaho purposes. ()

c. If the election is made on an amended or original return filed subsequent to the time allowed in Paragraph 201.05.a, it is considered untimely. ()

06. Order in Which Losses Are Applied in a Year. Loss carryovers are deducted before deducting any loss carrybacks applicable to the same taxable year. ()

07. Documentation Required When Claiming a Net Operating Loss Deduction. A taxpayer claiming a net operating loss deduction for a taxable year must file with his return for that year a concise statement setting forth the amount of the net operating loss deduction claimed and all material and pertinent facts, including a detailed schedule showing the computation of the net operating loss and its carryback or carryover. ()

08. Conversion of C Corporation to S Corporation. An S corporation may not carry over or back a net operating loss from a taxable year in which the corporation was a C corporation. However, an S corporation subject to Idaho tax on net recognized built-in gains or excess net passive income may deduct a net operating loss carryover from a taxable year in which the corporation was a C corporation against its net recognized built-in gain and excess net passive income. ()

202. -- 209. (RESERVED)

210. REDUCTION OF IDAHO TAX ATTRIBUTES AND BASIS WHEN INCOME FROM INDEBTEDNESS DISCHARGE IN BANKRUPTCY IS EXCLUDED FROM GROSS INCOME (RULE 210).
Section 63-3022(c), Idaho Code

01. In General. Any taxpayer excluding from taxable income an amount resulting from the discharge of indebtedness in bankruptcy under Section 108(b) of the Internal Revenue Code, is to reduce Idaho net operating loss and basis in accordance with Section 346 of the Bankruptcy Code of the United States. If the discharge occurs outside of bankruptcy, the provisions of these rules do not apply. ()

02. Order of Reduction. The reduction referred to in Subsection 210.01 is to be made to the following tax attributes in the following order: ()

a. Any net operating loss deduction, as defined in Rule 201 of these rules, is to be reduced by the amount of the indebtedness forgiven or discharged in bankruptcy except as follows: ()

i. A deduction with respect to the liability which is disallowed for any taxable period during or after the liability is forgiven or discharged. A deduction with respect to the liability includes a capital loss incurred on the disposition of a capital asset with respect to a liability that was incurred in connection with the acquisition of such asset. ()

ii. To the extent that the indebtedness forgiven or discharged consisted of items of a deductible nature that were not deducted by the taxpayer, or resulted in an expired net operating loss deduction or carryover that did not offset income for any taxable period and did not contribute to a net operating loss in or a net operating loss carryover to the taxable period during or after the indebtedness was discharged. ()

b. The basis in the taxpayer's property or of property transferred to an entity required to use the taxpayer's basis in whole or in part is to be reduced by the lesser of: ()

i. The amount of the forgiven or discharged indebtedness, minus the total amount of adjustments made under Subsection 210.02.a.; and ()

ii. The amount of the debtor's total basis of assets before the discharge that exceeds the total preexisting liabilities still remaining after discharge of indebtedness. Basis may not be reduced below a level equal to the remaining undischarged liabilities. ()

03. Exception to Basis Reduction. The basis reduction under Subsection 210.02.b. is not required if the taxpayer elects to treat the amount that would otherwise be applied in reduction of basis as taxable income of the taxable period in which the debt is forgiven or discharged. ()

04. Discharge Not Treated as Discharged Indebtedness. The following provisions exclude from this rule indebtedness that is discharged and treat the debtor as if it had originally issued stock instead of debt. No reduction to the Idaho net operating loss or basis is required if one (1) or more of these provisions are satisfied. ()

a. The indebtedness did not consist of items of a deductible nature and is exchanged for an equity security, other than a limited partnership interest, issued by the debtor or is forgiven as a contribution to capital; or ()

b. The indebtedness consisted of items of a deductible nature, and the exchange of stock for debt has the same effect as a cash payment equal to the fair market value of the equity security that is issued by the debtor or, if the value of the security is less than the value of the debt, only part of the debt will be excluded. ()

211. -- 249. (RESERVED)

250. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- INCOME SUBJECT TO IDAHO TAXATION (RULE 250).

Sections 63-3026A(1) and (2), Idaho Code

01. Receipt of Income -- Part-Year Residents. For purposes of determining if income is reportable to Idaho by a part-year resident, a cash basis taxpayer is considered to have earned or received income when it is actually or constructively received, except as provided in Subsections 250.04 and 250.05. ()

02. Receipt of Intangible Income -- Part-Year Residents. ()

a. Interest and dividend income received from a source other than from a pass-through entity is considered to be earned or received by a part-year resident ratably during the taxable year. ()

b. If a transaction or activity gives rise to income that is reported in a subsequent year when the taxpayer is a part-year resident, the income must be treated as received ratably during that subsequent year. Subsection 250.04 also applies to income that is not received during the year by the taxpayer, but which must be reported in taxable income. ()

c. A part-year resident must report such income to Idaho in the proportion that the number of days during the taxable year that the individual qualified as an Idaho part-year resident bears to total days in the taxable year. ()

03. Receipt of Pass-Through Items of Income and Losses -- Part-Year Residents. ()

a. For a part-year resident who is a shareholder in an S corporation, or a partner in a partnership, the income, gains, losses and other pass-through items from the S corporation or partnership are treated as received ratably during the taxpayer's taxable year. If the taxpayer was not a shareholder or partner for the entire taxable year, the pass-through items are treated as received ratably during the portion of the taxable year the taxpayer was a shareholder of the S corporation or partner of the partnership. ()

b. For a part-year resident who is a beneficiary of an estate or trust, the income, gains, losses and other pass-through items from the estate or trust are treated as received ratably during the taxpayer's taxable year. If the taxpayer was not a beneficiary of the estate or trust for the entire taxable year, the pass-through items are treated as received ratably during the portion of the taxable year the taxpayer was a beneficiary of the estate or trust. ()

c. A part-year resident must report such income to Idaho in the proportion that the number of days during the taxable year that the individual qualified as an Idaho part-year resident bears to total days in the taxable year. ()

04. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

251. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- COMPUTATION OF IDAHO TAXABLE INCOME (RULE 251).

Section 63-3026A, Idaho Code

For purposes of this rule, federal total income means gross income less certain deductions allowed under the Internal Revenue Code. It is the amount reported on the federal individual income tax return that is identified as total income.

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252. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADJUSTMENTS ALLOWED IN COMPUTING IDAHO ADJUSTED GROSS INCOME (RULE 252).

Section 63-3026A(6), Idaho Code

01. In General. Deductions allowed in computing adjusted gross income will be allowed in computing Idaho adjusted gross income unless specifically denied by Idaho law. The amount allowed will be computed as provided in this rule. Each computation in this rule will include the amounts reported for the taxable year unless otherwise indicated. ()

02. Deductions Directly Related to Specific Items of Income or Property. If the deduction directly relates to a specific item of income or property, the allowable deduction will be computed by dividing the amount of related income reported in Idaho income by the total of such related income reported in federal income. This percentage is multiplied by the deduction to arrive at the amount allowed as an Idaho deduction. If the deduction is related to property that did not generate income during the taxable year, the deduction will be allowed in the proportion that the property to which the deduction relates was located in Idaho. Examples of some of these deductions include the following: ()

a. Penalty on early withdrawal of savings. The allowable deduction will be computed by dividing the interest income of the time savings deposit subject to the penalty included in Idaho income by the total interest income of the time savings deposit included in federal income. This percentage is multiplied by the penalty deduction allowed for federal purposes. ()

b. Certain business expenses of reservists, performing artists, and fee-basis government officials. ()

c. Jury duty pay remitted to an employer. ()

d. Deductible expenses related to income from the rental of personal property engaged in for profit. ()

e. Reforestation amortization and expenses. The allowable deduction will be computed by dividing the income from the related timber operations included in Idaho income by the total income from the related timber operations. If there is no income from the related timber operations for the year of the deduction, the allowable deduction will be computed based on the percentage of property in Idaho to total property to which the reforestation amortization and expenses relate. This percentage is multiplied by the reforestation amortization and expense deduction allowed for federal income tax purposes. ()

f. Repayment of supplemental unemployment benefits. The allowable deduction will be computed by dividing the supplemental unemployment benefits included in Idaho income by the total supplemental unemployment benefits reported in federal income. This percentage is multiplied by the repayment deduction allowed for federal purposes. ()

g. Attorney fees and court costs. The allowable deduction will be computed by dividing the total income related to the attorney fees and court costs included in Idaho income by the total income from such actions. This percentage is multiplied by the attorney fees and court costs allowed for federal purposes. ()

03. Deductions Allowed Based on Qualifying Types of Income. If the deduction is dependent on the taxpayer earning a qualifying type of income, the allowable deduction will be computed by dividing the amount of the qualifying income reported in Idaho income by the total of such qualifying income reported. This percentage is multiplied by the deduction to arrive at the amount allowed as an Idaho deduction. ()

a. Payments to an individual retirement account (IRA), federal health savings or medical savings account, or Section 501(c)(18)(D) retirement plan. The allowable deduction will be computed by dividing the taxpayer's Idaho compensation by the taxpayer's total compensation. This percentage is multiplied by the deduction

allowed for federal purposes. For purposes of this rule, compensation means “compensation” as defined in Section 219(f)(1), Internal Revenue Code, and Treasury Regulation Section 1.219-1(c)(1). Idaho compensation is determined pursuant to Rule 270 of these rules. ()

b. Payments to a Keogh retirement plan, simplified employee pension (SEP) Plan, SIMPLE Plan, self-employment tax, and self-employment health insurance. The allowable deduction will be computed by dividing the taxpayer's self-employment income from Idaho sources by the taxpayer's total self-employment income. This percentage is multiplied by the self-employment deductions allowed for federal purposes. ()

04. Other Deductions. Deductions that do not relate to specific items of income or to the earning of qualifying income will be allowed in the proportion that Idaho total income bears to federal total income. The federal net operating loss deduction is not included in either the federal total income or the Idaho total income for this calculation. Such deductions include the following: ()

- a.** Alimony payments. ()
- b.** Moving expenses. ()
- c.** Student loan interest payments. ()
- d.** Tuition and fees deduction. ()

253. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADDITIONS REQUIRED IN COMPUTING IDAHO ADJUSTED INCOME.

Section 63-3026A(6), Idaho Code. The following must be added to Idaho adjusted gross income in computing the Idaho adjusted income of nonresident and part-year resident individuals. ()

01. Interest and Dividends Not Taxable Pursuant to the Internal Revenue Code. ()

a. Part-Year Residents. Interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho must be added. However, interest received from obligations of the state of Idaho or any political subdivision of Idaho is exempt from Idaho income tax and is not added. ()

b. Nonresidents. Interest and dividend income reportable from a pass-through entity that was transacting business in Idaho must be added to the extent the income was apportioned or allocated as Idaho income. ()

02. Net Operating Loss Deduction. The amount of the net operating loss deduction included in Idaho adjusted gross income must be added. ()

03. Capital Loss. Capital losses included in Idaho adjusted gross income must be added if the loss was incurred while not residing in and not domiciled in Idaho, or if the loss relates to an activity not taxable by Idaho at the time the loss was incurred. ()

04. Lump Sum Distributions. Part-year residents must add the taxable amount of a lump sum distribution deducted in calculating taxable income received while residing in or domiciled in Idaho. This includes both the ordinary income portion and the amount eligible for the capital gain election. ()

05. Idaho Medical Savings Account. An account holder must add the amount of any nonqualified withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. ()

06. Idaho College Savings Program. ()

a. An account owner must add the amount of a nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's Idaho adjusted gross income. The addition is

limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ()

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007, to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. ()

07. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. An individual must add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. This addition does not apply to depreciation computed on property acquired after 2007 and before 2010. ()

254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (RULE 254).

Section 63-3026A(6), Idaho Code. The following are allowable subtractions in computing the Idaho adjusted income of nonresident and part-year resident individuals. ()

01. Idaho Net Operating Loss. An Idaho net operating loss deduction described in Section 63-3021, Idaho Code, and allowed by Section 63-3022(c), Idaho Code, may be subtracted to the extent the loss was incurred while the taxpayer was residing in or domiciled in Idaho or to the extent the loss was from activity taking place in Idaho. A net operating loss incurred from an activity not taxable by Idaho may not be subtracted. ()

02. State and Local Income Tax Refunds. State and local income tax refunds included in Idaho total income may be subtracted unless the refunds have already been subtracted pursuant to Section 63-3022(a), Idaho Code. ()

03. Income Not Taxable by Idaho. As provided in Section 63-3022(f), Idaho Code, income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States may be subtracted if that income is included in Idaho total income and has not been previously subtracted. Income exempt from taxation by Idaho includes the following: ()

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. ()

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho a subtraction is allowed for each lottery prize that is less than six hundred dollars (\$600). If a prize equals or exceeds six hundred dollars (\$600), no subtraction is allowed. The full amount of the prize is included in income. ()

c. Certain income earned by American Indians. An enrolled member of a federally recognized Indian tribe who lives on his tribe's federally recognized Indian reservation is not taxable on income derived within that reservation. ()

d. Certain income earned by transportation employees covered by Title 49, Sections 11502, 14503 or 40116, United States Code. ()

e. Certain income from loss recoveries. See Section 63-3022R, Idaho Code. ()

04. Military Pay. Qualified military pay included in Idaho total income earned for military service performed outside Idaho may be subtracted. Qualified military pay means all compensation paid by the United States

for services performed while on active duty as a full-time member of the United States Armed Forces which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more. A nonresident does not include his military pay in Idaho total income and, therefore, makes no adjustment. ()

05. Social Security and Railroad Retirement Benefits. Social security benefits and benefits paid by the Railroad Retirement Board that are taxable pursuant to the Internal Revenue Code may be subtracted to the extent the benefits are included in Idaho total income. ()

06. Household and Dependent Care Expenses. The allowable portion of household and dependent care expenses that meets the requirements of Section 63-3022D, Idaho Code, may be subtracted if incurred to enable the taxpayer to be gainfully employed in Idaho. To determine the allowable portion of household and dependent care expenses, a percentage is calculated by dividing Idaho earned income by total earned income. The qualified expenses are multiplied by the percentage. Earned income is defined in Section 32(c)(2), Internal Revenue Code. ()

07. Insulation and Alternative Energy Device Expenses. Expenses related to the installation of insulation or alternative energy devices that meet the requirements of Section 63-3022B or 63-3022C, Idaho Code, may be subtracted. ()

08. Deduction for Dependents Sixty-Five or Older or with Developmental Disabilities. One thousand dollars (\$1,000) may be subtracted for each person who meets the requirements of Section 63-3022E, Idaho Code. The deduction may be claimed for no more than three (3) qualifying dependents. If a dependent has not lived in the maintained household for the entire taxable year, the allowable deduction is eighty-three dollars (\$83) for each month the dependent resided in the maintained household during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. ()

09. Adoption Expenses. The allowable portion of adoption expenses that meets the requirements of Section 63-3022I, Idaho Code, may be subtracted. To determine the allowable portion, calculate a percentage by dividing Idaho total income by total income. The deduction allowable pursuant to Section 63-3022I, Idaho Code, is multiplied by the percentage. ()

10. Capital Gains Deduction. The Idaho capital gains deduction allowed by Section 63-3022H, Idaho Code, may be subtracted. ()

11. Idaho Medical Savings Account. ()

a. The qualifying amount of contributions to an Idaho medical savings account that meets the requirements of Section 63-3022K, Idaho Code, may be subtracted. ()

b. Interest earned on an Idaho medical savings account may be subtracted to the extent included in Idaho total income. ()

12. Technological Equipment Donation. As provided by Section 63-3022J, Idaho Code, the lower of cost or fair market value of technological equipment donated to qualifying institutions may be subtracted, limited to the Idaho taxable income of the taxpayer. ()

13. Worker's Compensation Insurance. As allowed by Section 63-3022(m), Idaho Code, a self-employed individual may subtract the premiums paid for worker's compensation for coverage in Idaho to the extent not previously subtracted in computing Idaho taxable income. ()

14. Idaho College Savings Program. The qualifying amount of contributions to a college savings program that meets the requirements of Section 63-3022(n), Idaho Code, may be subtracted. ()

15. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, a deduction from taxable income is allowed for certain retirement benefits. To determine the allowable portion of the deduction for certain retirement benefits, a percentage is calculated by dividing the qualified retirement benefits included in Idaho gross income by the qualified retirement benefits included in federal gross income. The deduction allowable pursuant to Section 63-3022A, Idaho Code, is multiplied by the percentage. ()

16. Health Insurance Costs. The allowable portion of the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care as defined in Section 63-3022P, Idaho Code, for the taxpayer, spouse or dependents of the taxpayer not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes may be subtracted. To determine the allowable portion of the amounts paid for medical care insurance, a percentage is calculated by dividing Idaho total income by total income. The deduction allowable pursuant to Section 63-3022P, Idaho Code, is multiplied by the percentage. ()

17. Long-Term Care Insurance. As provided in Section 63-3022Q, Idaho Code, a deduction from taxable income is allowed for the allowable portion of premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer that have not otherwise been deducted or accounted for by the taxpayer for Idaho income tax purposes. To determine the allowable portion, a percentage is calculated by dividing Idaho total income by total income. The deduction allowable pursuant to Section 63-3022Q, Idaho Code, is multiplied by the percentage. ()

18. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. The adjustments required by this subsection do not apply to property acquired after 2007 and before 2010. ()

a. Depreciation. The amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes may be subtracted. ()

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions apply in computing the Idaho capital loss allowed. ()

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, a subtraction is allowed for the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. ()

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, the federal gain and the Idaho loss must be added together and the total may be subtracted. For example, if a taxpayer has a federal gain of five thousand dollars (\$5,000) and an Idaho loss of four thousand dollars (\$4,000), the amount subtracted would be nine thousand dollars (\$9,000). ()

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, the difference between the federal and Idaho losses may be subtracted. For example, if a taxpayer has a federal loss of three hundred dollars (\$300) and an Idaho loss of five hundred dollars (\$500), the amount subtracted would be two hundred dollars (\$200). ()

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars (\$6,000) and an Idaho capital loss of eight thousand dollars (\$8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars (\$3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars (\$2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars (\$1,000) and an Idaho deductible capital loss of three thousand dollars (\$3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars (\$2,000) in computing Idaho taxable income. ()

255. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PRORATION OF EXEMPTIONS AND DEDUCTIONS (RULE 255).

Section 63-3026A(4), Idaho Code

01. In General. The exemptions and deductions allowable for federal purposes, except for the deduction of state and local income taxes and the deduction for state and local general sales taxes, are allowed in part in computing Idaho taxable income. To determine the portion of exemptions and deductions allowable for part-year and nonresident individuals, the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(j), Idaho Code, are multiplied by the calculated proration. ()

02. Proration. For taxable years beginning in or after 2007, the proration is calculated by dividing Idaho adjusted income by total adjusted income. Calculate four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($\$10,000 / \$15,000 = .66666 = .6667 = 66.67\%$). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($\$10,000 / \$30,000 = .33333 = .3333 = 33.33\%$). The percentage may not exceed one hundred percent (100%), nor be less than zero (0). ()

a. Idaho adjusted income means the Idaho taxable income of the taxpayer as computed pursuant to Title 63, Chapter 30, Idaho Code, except for any adjustments for the standard deduction or itemized deductions and personal exemptions. Total adjusted income means the Idaho taxable income of the taxpayer computed as if he were a resident of Idaho for the entire taxable year, except no adjustments are made for the standard deduction, itemized deductions, personal exemptions, the deduction for active military service pay as provided in Section 63-3022(h), Idaho Code, and any deduction for income earned within a federally recognized Indian reservation. ()

b. Generally, both Idaho adjusted income and total adjusted income are positive amounts. If Idaho adjusted income is less than or equal to the total adjusted income, the percentage is between zero (0) and one hundred percent (100%). If Idaho adjusted income is greater than the total adjusted income, the percentage is one hundred percent (100%). If Idaho adjusted income is a positive amount and total adjusted income is a negative amount, the percentage is one hundred percent (100%). If Idaho adjusted income is a negative amount and total adjusted income is a positive amount, the percentage is zero (0). ()

03. Standard Deduction for Married Filing Joint Returns. The proration percentage is applied after making the following calculations for taxable years beginning on or after January 1, 2000. The standard deduction allowed on a married filing joint return is equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. ()

256. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PRORATION OF QUALIFIED BUSINESS INCOME DEDUCTION (RULE 256).

Section 63-3026A(6), Idaho Code

01. In General. The qualified business income deduction allowable for federal purposes is allowed in part in computing Idaho taxable income. To determine the portion of qualified business income deduction allowable for part-year and nonresident individuals, the qualified business income deduction allowed by Section 199A, Internal Revenue Code, is multiplied by the calculated proration. ()

02. Proration. For taxable years beginning in or after 2018, the proration is calculated by dividing the total Idaho source qualified business income (loss) by the total qualified business income (loss). Calculate four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($\$10,000 / \$15,000 = .66666 = .6667 = 66.67\%$). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($\$10,000 / \$30,000 = .33333 = .3333 = 33.33\%$). The percentage may not exceed one hundred percent (100%), nor be less than zero (0). ()

a. Idaho source qualified business income or (loss) means the taxpayer's Idaho apportioned share of the qualified business income or (loss) from each qualified trade or business. ()

b. If the net Idaho source qualified business income is zero or less, no qualified business income deduction is allowed for Idaho income tax purposes. ()

257. -- 262. (RESERVED)

263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).

Section 63-3026A(3), Idaho Code

01. In General. The taxable amount of a shareholder's pro rata share or a partner's distributive share of business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. ()

02. Nonbusiness Income. Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. ()

03. Pass-Through Items. Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: ()

- a. Ordinary income or loss from trade or business activities; ()
- b. Net income or loss from rental real estate activities; ()
- c. Net income or loss from other rental activities; ()
- d. Interest income; ()
- e. Dividends; ()
- f. Royalties; ()
- g. Capital gain or loss; ()
- h. Other portfolio income or loss; ()
- i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. ()

04. Guaranteed Payments Treated As Compensation. ()

a. Guaranteed payments to an individual partner up to the amount shown at <https://tax.idaho.gov/guarpay> in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. ()

b. The amounts of guaranteed payments that are sourced as compensation for services are listed at <https://tax.idaho.gov/guarpay>. ()

05. Distributions. ()

a. Partnerships. The amount of distributions received by a partner that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 731, Internal Revenue Code, by the Idaho apportionment factor of the partnership. ()

b. S Corporations. The amount of distributions received by a shareholder that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 1368, Internal Revenue Code, by the Idaho apportionment factor of the S corporation. ()

264. INCOME FROM REAL AND TANGIBLE PERSONAL PROPERTY (RULE 264).

Section 63-3026A(3), Idaho Code

01. In General. Rents, royalties, profits, gains, losses and other items of income from the ownership or disposition of real or tangible personal property located in Idaho is Idaho source income. ()

02. Property Located Within and Without Idaho. ()

a. If the property is located or used within and without Idaho, specific allocation of the income, gain, or loss is appropriate if the gross receipts and related deductions and expenses are readily identifiable from the location or use of the property in Idaho. ()

b. To the extent income derived from real property located both within and without Idaho cannot be specifically allocated, the rents, profits, gains, losses or other items of income that constitute Idaho source income are determined by multiplying each item of income by a fraction. The numerator of the fraction is the average value of the property located in Idaho and the denominator is the average value of the property located both within and without Idaho. The value of real property is determined by the original cost of the land and improvements. The average value is determined by averaging the values at the beginning and end of the taxable year. However, the Tax Commission may require the averaging of monthly values during the taxable year if required to properly reflect the average value of the taxpayer's property. ()

c. To the extent income derived from tangible personal property used both within and without Idaho cannot be readily allocated, the rents, royalties, gains, losses, and other items of income that constitute Idaho source income are determined by multiplying each item of income by a fraction. The numerator of the fraction is the total number of days the property was used in Idaho during the taxable year, and the denominator is the total number of days the property was used both within and without Idaho during the taxable year. ()

03. Alternative Method. If either fraction in Subsection 264.02 does not fairly represent the income derived from the property's use in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, acres may be a more appropriate measure than average value in some cases. ()

a. The taxpayer will fully explain the alternative method in a statement attached to his Idaho individual income tax return. ()

b. The method proposed by the taxpayer may be used in lieu of the method in Subsection 264.02 unless the Tax Commission expressly denies its use. ()

265. SOLE PROPRIETORSHIPS OPERATING WITHIN AND WITHOUT IDAHO (RULE 265).

Section 63-3026A(3), Idaho Code

01. In General. A sole proprietorship that operates within and without Idaho will apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of proprietorship income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. ()

02. Application of Rule. This rule also applies to farming activities operated as a sole proprietorship. ()

03. Alternative Method. If the method described in Subsection 265.01 does not fairly represent the extent of the business activity in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. ()

a. The taxpayer will fully explain the alternative method in a statement attached to his Idaho individual income tax return. ()

b. The method proposed by the taxpayer may be used in lieu of the method in Subsection 265.01

unless the Tax Commission expressly denies its use. ()

266. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- INCOME FROM INTANGIBLE PROPERTY (RULE 266).

Section 63-3026A(3), Idaho Code

01. In General. Gross income from intangible property generally is sourced to the state of the owner's domicile. The following are exceptions to this rule. ()

a. If the intangible property is employed in the owner's trade, business or profession carried on within Idaho, any income derived from or related to the property, including gains from the sale thereof, constitutes income from Idaho sources. For example, if a nonresident pledges stocks, bonds or other intangible personal property as security for the payment of indebtedness incurred in connection with the nonresident's Idaho business operations, the intangible property has an Idaho situs and the income derived therefrom constitutes Idaho source income. ()

b. Interest income from the sale of real or tangible personal property on the installment method is treated as income from the sale of the underlying property and is therefore sourced to Idaho if the underlying property was located in Idaho when sold. ()

c. Interest income paid by an S corporation to a shareholder or by a partnership to a partner is sourced to Idaho in proportion to the Idaho apportionment factor of the partnership or S corporation. ()

d. Gains or losses from the sale or other disposition of a partnership interest or stock in an S corporation are sourced to Idaho by using the Idaho apportionment factor for the entity for the taxable year immediately preceding the year of the sale of the interest or stock. However, a gain or loss from the sale of an interest in a publicly traded partnership transacting business in Idaho is Idaho source income to the extent of the gain or loss determined under Section 751, Internal Revenue Code, multiplied by the Idaho apportionment factor of the partnership for the year in which the sale occurred. ()

02. Interest Income Earned on a Bank Account. ()

a. Personal Bank Accounts. Interest income earned on a personal bank account is sourced to the owner's state of domicile. A personal bank account is an account that is not used in connection with a business. ()

b. Business Bank Accounts. If the business is a sole proprietorship, see Rule 265 of these rules. If the business is an S corporation or partnership, see Rule 263 of these rules. ()

03. Payment of Penalties. Payment of penalties is sourced to Idaho the same as interest income. This includes penalties arising from the prepayment or late payment of an installment contract. If the installment contract is for the sale of Idaho property, any penalty paid is Idaho source income. ()

04. Covenant Not to Compete. Income from a covenant not to compete is sourced to Idaho based on the Idaho apportionment factor of the entity sold for the taxable year immediately preceding the year of the sale. ()

05. Goodwill. Gain or loss from the sale of goodwill from a business transacting business in Idaho is sourced to Idaho based on the Idaho apportionment factor of the business sold for the taxable year immediately preceding the year of the sale. ()

06. Timing of Sourcing Determination for Intangible Personal Property. The source of gains and losses from the sale or other disposition of intangible personal property is determined at the time of the sale or disposition of the property. For example, if an Idaho resident sells intangible personal property under the installment method, and subsequently becomes a nonresident, gain attributable to any installment payment receipts relating to that sale will be sourced to Idaho even though the individual is a nonresident when a payment is received. If the intangible personal property was employed in the owner's business, trade, profession, or occupation conducted or carried on in Idaho as described in Paragraph 266.01.a., of this rule, at the time of the sale, any subsequent installment

payments is Idaho source income. ()

267. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PASSIVE ACTIVITY LOSSES (RULE 267).
Section 63-3026A(6), Idaho Code

01. In General. Losses from a passive activity incurred while an individual is a nonresident are included in Idaho taxable income only to the extent the losses were from Idaho activity. ()

02. Idaho Activity. An activity is an Idaho activity only to the extent the income from that activity would be included in the Idaho taxable income of a nonresident pursuant to Section 63-3026A, Idaho Code. If a passive activity is engaged in both within and without Idaho, the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules must be applied to determine the extent of Idaho activity. ()

03. Prior Year Losses. Suspended passive activity losses from prior years included in federal taxable income for the current year are included in Idaho taxable income only to the extent the losses were from Idaho activity. ()

04. Current Year Losses. Non-Idaho passive activity losses incurred in the current taxable year are included in Idaho taxable income only to the extent the losses were incurred while the individual was an Idaho resident. The portion of the losses incurred while an Idaho resident is determined by prorating the losses based on the proportion of the year the individual resided in Idaho. ()

268. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUSPENDED LOSSES FROM PASS-THROUGH ENTITIES (RULE 268).
Section 63-3026A, Idaho Code

01. In General. A nonresident individual's suspended losses from a pass-through entity are included in Idaho taxable income in the year included in federal taxable income only to the extent the losses were from an Idaho source in the year incurred. ()

a. Suspended Loss. For purposes of this rule, a suspended loss is a loss required to be carried over to a succeeding taxable year due to Section 465(a), Section 704(d), or Section 1366(d) of the Internal Revenue Code. ()

b. Idaho Source. A suspended loss is from an Idaho source in the year incurred to the extent provided by Section 63-3026A, Idaho Code, and related rules. For purposes of this rule, the Idaho source portion of a suspended business loss subject to apportionment is determined by multiplying the loss by the Idaho apportionment factor of the pass-through entity in the year the loss was incurred. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. ()

c. Nonbusiness Losses. A suspended nonbusiness loss is from an Idaho source in the year incurred to the extent the loss is allocable to Idaho pursuant to Section 63-3027, Idaho Code and Rule 263.02 of these rules. ()

d. Year Loss Incurred. For purposes of this rule, "year incurred" means the tax year the loss was first suspended. ()

02. Losses from Multiple Years. For purposes of this rule, losses from a pass-through entity are considered used in the order incurred. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

269. (RESERVED)

270. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- IDAHO COMPENSATION -- IN GENERAL (RULE 270).

Section 63-3026A(3), Idaho Code

01. In General. If a nonresident individual performs personal services, either as an employee, agent, independent contractor, partner, or otherwise, both within and without Idaho, the portion of his total compensation that constitutes Idaho source income is determined by multiplying that total compensation by the Idaho compensation percentage. ()

02. Definitions. ()

a. The Idaho compensation percentage is the percentage computed by dividing Idaho workdays by total workdays. ()

b. The term Idaho workdays means the total number of days the taxpayer provided personal services in Idaho for a particular employer or principal during the calendar year. If personal services were provided both within and without Idaho on the same day, that day is an Idaho workday unless the taxpayer establishes that less than fifty percent (50%) of the services were performed within Idaho that day. If an employee works in Idaho part of the day on a regular full-time basis, working hours must be used to determine the amount of Idaho compensation. ()

c. Total workdays means the total number of days the taxpayer provided personal services for that employer or principal both within and without Idaho during the calendar year. For example, a taxpayer working a five (5) day work week may assume total workdays of two hundred sixty (260) less any vacation, holidays, sick leave days and other days off. ()

d. Total compensation means all salary, wages, commissions, contract payments, and other compensation for services, including sick leave pay, holiday pay and vacation pay, that is taxable pursuant to the Internal Revenue Code. ()

03. WorkDays. Workdays include only those days the taxpayer actually performs personal services for the benefit of the employer or principal. Vacation days, sick leave days, holidays, and other days off from work are considered non-workdays whether compensated or not. Total workdays must equal Idaho workdays plus non-Idaho workdays. The taxpayer has the burden of establishing non-Idaho workdays. Documentation establishing non-Idaho workdays may be required to support the Idaho compensation percentage used by the taxpayer. ()

04. Multiple Employers. If a taxpayer performs personal services both within and without Idaho for more than one (1) employer or principal, he must determine an Idaho compensation percentage separately for each employer or principal. ()

05. Alternative Method. If the Idaho compensation percentage does not fairly represent the extent of the taxpayer's personal service activities in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, working hours may be a more appropriate measure than workdays in some cases. ()

a. The taxpayer must fully explain the alternative method in a statement attached to his Idaho individual income tax return. ()

b. The alternative method may be used in lieu of the method in Subsection 270.01 unless the Tax Commission expressly denies its use. ()

271. IDAHO COMPENSATION: STOCK OPTIONS (RULE 271).

Section 63-3026A(3), Idaho Code

01. In General. The granting of stock options is considered to be compensation for services. Although considered as compensation, in some circumstances the taxpayer may report the compensation on his federal income tax return as capital gain income. The character of the income from the granting of stock options and the timing of

reporting it for federal income tax purposes apply in computing Idaho taxable income. ()

02. Definitions. For purposes of this rule: ()

a. Workdays, Idaho workdays, and total workdays are defined in Rule 270 of these rules. ()

b. Compensable period means the period that begins at the date the stock option is granted and ends at the earlier of the date the stock option becomes vested or the date the employee's services terminate. ()

c. Statutory stock options are options governed by specific Internal Revenue Code sections that impose restrictions on both the employer and the employee. Statutory stock options include incentive stock options as provided in Section 422, Internal Revenue Code, and options issued pursuant to employee stock purchase plans as provided in Section 423, Internal Revenue Code. ()

d. Nonstatutory stock options are options that do not meet the Internal Revenue Code requirements to qualify as statutory stock options or are granted pursuant to a plan or offering that does not qualify. ()

03. Compensation for Future Services. The granting of stock options will be presumed to be intended as compensation for future services. The party alleging otherwise bears the burden of proving that the stock options were intended for services rendered before the date of grant. ()

04. Statutory Stock Options. ()

a. Compensation. Compensation is realized at the date the option is exercised, but not taxable until the income or gain is recognized for federal income tax purposes. If a taxpayer reports a capital gain for federal income tax purposes from statutory stock options, the amount of Idaho source compensation will also be reported as capital gain income for Idaho income tax purposes. Idaho source compensation is determined as follows: ()

i. Compensation is equal to the portion of the gain that equals the difference between the option price and the fair market value of the stock at the date the option was exercised. Compensation is limited to the gain actually recognized if the stock is sold for less than its fair market value at the time the option was exercised. No compensation will be reported if the stock is sold at a loss. ()

ii. Compensation for services performed in Idaho equals the compensation determined in Subsection 271.04.a.i., multiplied by the ratio of Idaho workdays to total workdays during the compensable period. ()

b. Investment Income. Appreciation in the value of the stock after the date the option was exercised is to be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. ()

05. Nonstatutory Stock Options. ()

a. Compensation. Compensation is recognized at the date the stock option is exercised. The amount of Idaho source compensation related to the stock option is determined as follows: ()

i. Compensation for federal income tax purposes is equal to the difference between the option price and the fair market value of the stock at the date the option was exercised. ()

ii. Compensation for services performed in Idaho equals the compensation determined in Subsection 271.05.a.i., multiplied by the ratio of Idaho workdays to total workdays during the compensable period. ()

b. Investment Income. Appreciation or depreciation in the value of the stock after the date the option was exercised is to be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. ()

272. IDAHO COMPENSATION: SEVERANCE PAY (RULE 272).
Section 63-3026A(3), Idaho Code

01. In General. In accordance with federal Treasury Regulation Section 1.61-2, termination or severance pay is treated as compensation for services. The amount of termination or severance pay received by a nonresident that is subject to Idaho income tax is determined pursuant to this rule. ()

02. Definitions. For purposes of this rule workdays, Idaho workdays and total workdays are defined in Rule 270 of these rules. ()

03. Calculation of Idaho Source Severance Pay. The amount of severance pay that is Idaho source income is to be equal to the severance pay received during the taxable year multiplied by the ratio of Idaho workdays to total workdays during either of the following: ()

a. The employee's entire period of employment with such employer; or ()

b. The employee's last twelve (12) months of employment with such employer. ()

04. Alternative Method. If the Idaho compensation percentage computed in Subsection 272.03 does not fairly represent the extent of the taxpayer's personal service activities in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, working hours may be a more appropriate measure than workdays in some cases. ()

a. The taxpayer will fully explain the alternative method in a statement attached to his Idaho individual income tax return. ()

b. The alternative method may be used in lieu of the method in Subsection 272.03 unless the Tax Commission expressly denies its use. ()

273. IDAHO COMPENSATION: UNEMPLOYMENT COMPENSATION (RULE 273).

Section 63-3026A(3), Idaho Code. Unemployment compensation benefits are Idaho source income if the benefits are received by the taxpayer from the state of Idaho, even though the benefits may relate to wages earned in Idaho and another state. Unemployment compensation benefits received from another state does not constitute Idaho source income even though the calculation of the benefits may be based in part on wages earned in Idaho. ()

274. (RESERVED)

275. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- INVESTMENT INCOME FROM QUALIFIED INVESTMENT PARTNERSHIPS (RULE 275).

Section 63-3026A(3)(c), Idaho Code

01. In General. ()

a. For taxable years beginning on or after January 1, 2007, the Idaho taxable income of a nonresident individual does not include the distributive share of investment income of a qualified investment partnership. The distributive share of noninvestment income of a qualified investment partnership derived from or related to sources within Idaho is included in Idaho taxable income. See Rule 250 of these rules for information on when pass-through income from a partnership is deemed to have been received. ()

b. The exemption from tax on investment income from a qualified investment partnership does not apply to gains or losses derived from the sale of a nonresident individual's interest in a qualified investment partnership. The source of these gains and losses is governed by Section 63-3026A(3)(a)(vii), Idaho Code, and Rule 266 of these rules. The source of investment income that is not from a qualified investment partnership is determined as provided in Rule 263 of these rules. ()

02. Qualified Investment Partnership. An entity is a qualified investment partnership only if it meets both of the following criteria: ()

a. The entity is classified as a partnership for federal income tax purposes, but is not a publicly traded partnership taxed as a corporation under Section 63-3006, Idaho Code. ()

b. The gross income from investments of the entity is derived at least ninety percent (90%) from investments that when held by a nonresident individual directly, would not produce income subject to the Idaho income tax. ()

03. Investment Income. For purposes of this exclusion, an item of partnership income is investment income only if it would not be Idaho taxable income of a nonresident individual if the individual held the investment directly. ()

04. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

276. -- 279. (RESERVED)

280. PARTNERSHIPS OPERATING WITHIN AND WITHOUT IDAHO (RULE 280).
Sections 63-3026A(3), 63-3027 and 63-3030(a)(9), Idaho Code

01. In General. A partnership that operates within and without Idaho must apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of partnership income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. ()

02. Exceptions to Apportionment Formula. If the method described in Subsection 280.01 does not fairly represent the extent of the business activity in Idaho, the partnership may file a request to use, or the Tax Commission may require, an alternative method, including the following: ()

- a. Separate accounting as provided in Rule 585 of these rules; ()
- b. The exclusion of a factor pursuant to Rule 590 of these rules; ()
- c. An additional factor or substitute factor pursuant to Rule 595 of these rules; or ()
- d. The employment of any other method that would fairly represent the extent of business activity in Idaho. ()

03. Information Provided to Partners. The partnership must provide to each partner information necessary for the partner to compute his Idaho income tax. Such information must include: ()

- a. The partner's share of each pass-through item of income and deduction; ()
- b. The partner's share of each Idaho addition and subtraction; ()
- c. The partner's share of Idaho qualifying contributions, Idaho tax credits, and tax credit recapture; ()
- d. The partner's share of income allocated to Idaho; ()
- e. The partnership's apportionment factor, and if the partner is not an individual, the partnership's property, payroll and sales factor numerator and denominator amounts, including the amount of capitalized rent expense; and ()
- f. The partner's distributive share of partnership gross income if the partner is an individual, trust, or estate. ()

281. -- 284. (RESERVED)

285. S CORPORATIONS (RULE 285).
Sections 63-3025 and 63-3025A, Idaho Code

01. Minimum Tax. The minimum tax is required of every S corporation that is required to file a return. A name-holder or inactive S corporation that is authorized to do business in Idaho pays the minimum tax of twenty dollars (\$20) even though the S corporation did not conduct Idaho business activity during the taxable year. ()

02. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. An S corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. ()

03. Application of Credits. If an S corporation was previously a C corporation with an Idaho income tax credit carryover at the time of the S corporation election, the S corporation may use any available credit carryover against the tax on the excess net passive income or net recognized built-in gains if the carryover period related to the Idaho income tax credit has not expired before the taxable year in which the tax must be reported. ()

04. Tax Resulting From the Requirements of Section 63-3022L, Idaho Code. An S corporation is subject to tax at the corporate rate on the income required to be reported for qualifying shareholders under Section 63-3022L, Idaho Code. This tax is in addition to any tax the S corporation owes under Section 63-3025 or 63-3025A, Idaho Code. ()

05. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) will be treated for Idaho income tax purposes the same as treated for federal income tax purposes. The QSSS will not be treated as a separate corporation, but all the assets, liabilities, and items of income, deduction, and credit of a QSSS will be treated as assets, liabilities and such items of the S corporation. Since the QSSS is not treated as a separate taxpayer, it is not subject to the minimum tax. ()

286. S CORPORATIONS OPERATING WITHIN AND WITHOUT IDAHO (RULE 286).
Sections 63-3027 and 63-3030(a)(4), Idaho Code

01. In General. An S corporation that operates within and without Idaho must apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of S corporation income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. ()

02. Information Provided to Shareholders. An S corporation must provide to each shareholder information necessary for the shareholder to compute his Idaho income tax. Such information must include: ()

- a. The shareholder's share of each pass-through item of income and deduction; ()
- b. The shareholder's share of each Idaho addition and subtraction; ()
- c. The shareholder's share of Idaho qualifying contributions, Idaho tax credits, and tax credit recapture; ()
- d. The shareholder's share of income allocated to Idaho; ()
- e. The S corporation's apportionment factor; and ()
- f. The shareholder's distributive share of S corporation gross income. ()

03. Protection Under Public Law 86-272. An S corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. ()

04. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) must include its apportionment attributes with its parent's apportionment attributes to compute one Idaho apportionment factor for the S corporation. If the S corporation and its qualified subchapter S subsidiaries are carrying on more than one unitary business, each unitary business must allocate and apportion its income pursuant to

Rule 340.03. ()

287. -- 290. (RESERVED)

291. TAX PAID BY PASS-THROUGH ENTITIES FOR OWNERS OR BENEFICIARIES -- COMPUTATION OF IDAHO TAXABLE INCOME FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2014 (RULE 291).

Sections 63-3022L and 63-3026A, Idaho Code

01. Income Reportable to Idaho. The following items must be included in the computation of Idaho taxable income for an individual: ()

a. Pass-through items that are income from Idaho sources of an owner as determined pursuant to Rule 263 of these rules. ()

b. Distributable net income from an estate or trust that is income from Idaho sources. ()

02. Deductions. Pass-through entities paying the tax under Section 63-3022L, Idaho Code, are not entitled to claim the following deductions on behalf of an individual. ()

a. Capital Loss. As provided in Section 63-3022(i), Idaho Code, S corporations and partnerships are not allowed to carry over or carry back any capital loss provided for in Section 1212, Internal Revenue Code. ()

b. Net Operating Loss. As provided in Section 63-3022(i), Idaho Code, S corporations and partnerships are not allowed to carry over or carry back any net operating loss provided for in Section 63-3022(c), Idaho Code. ()

c. Idaho Capital Gains Deduction. As provided in Section 63-3022H, Idaho Code, the Idaho capital gains deduction may only be claimed by individual taxpayers on an individual income tax return. ()

d. Informational Items. Amounts provided to owners of pass-through entities and beneficiaries of trusts and estates on the federal Schedule K-1 that are informational only may not be used as a deduction in computing the taxable income reportable under Section 63-3022L, Idaho Code. Informational items include the domestic production activities information and net earnings from self-employment. ()

e. Items Not Deductible Under the Internal Revenue Code. A deduction is not allowed for items disallowed under the Internal Revenue Code. For example, a deduction is not allowed for items disallowed as a deduction in Sections 162(c) and 262 through 280E, Internal Revenue Code, unless specifically allowed by Idaho law. Items allowed by Idaho law include expenses related to tax-exempt income under Section 265, Internal Revenue Code, which are allowed to be deducted as a result of Section 63-3022M, Idaho Code. ()

f. Items Not Reported as a Pass-Through Deduction. Amounts not reported from the pass-through entity to the pass-through owner are not allowed as a deduction under Section 63-3022L, Idaho Code. These include: ()

i. The standard deduction; ()

ii. Personal exemptions; ()

iii. Itemized deductions that result from activity of the pass-through owner. For example, a deduction is not allowed for charitable contributions made personally by the pass-through owner, but is allowed for the pass-through owner's share of charitable contributions made by the pass-through entity. ()

g. Items Reported as a Pass-Through Deduction. Amounts reported from the pass-through entity to the pass-through owner in their distributive share are allowed as a deduction under Section 63-3022L, Idaho Code, unless otherwise disallowed under this rule. These include but are not limited to: ()

- i. Section 179, Internal Revenue Code, deduction; ()
- ii. Charitable contributions made by the pass-through entity; ()
- iii. Investment interest expense; ()
- iv. Section 59(e)(2), Internal Revenue Code, expenditures (qualified research expenditures); ()
- v. Amounts paid for medical insurance; ()
- vi. Educational assistance benefits; ()
- vii. Payments to a pension or IRA. ()

03. Double Deductions Disallowed. A pass-through owner may not deduct amounts that previously have been deducted by a pass-through entity paying the tax on his behalf. If the pass-through owner files an Idaho individual income tax return reporting federal taxable income that includes amounts previously deducted by a pass-through entity on his behalf, the pass-through owner must add back the duplicated deduction amounts in computing his Idaho taxable income on his individual income tax return. ()

292. -- 299. (RESERVED)

[Sections 300-699 that were originally negotiated in this ZBR chapter rewrite have been promulgated under companion docket 35-0101-2202 published in this bulletin]

700. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY: IN GENERAL (RULE 700).

Section 63-3029, Idaho Code

01. Taxes Not Eligible for the Credit. If any tax or portion thereof is imposed on capital stock, retained earnings, stock values, or a basis other than income, the tax is not eligible for the credit. The credit is not allowed for income taxes imposed by another state on income not taxed by Idaho. ()

02. Credit Calculated on a State-by-State Basis. The credit and credit limitations are to be calculated on a state-by-state basis. The taxpayer may not aggregate the income taxed by other states or the taxes paid to the other states for purposes of calculating the credit and its limitations. ()

03. Income Tax Payable to Another State. The income tax payable to another state is to be the tax paid after the application of all credits. The tax paid to the other state must be for the same taxable year that the credit is claimed. Tax paid to cities or counties does not qualify for the credit. ()

04. Limitations. The credit for taxes paid to another state is limited as follows: ()

a. The credit allowed may not exceed the amount of tax actually paid to the other state. This includes the amount paid by a qualifying individual and the amount paid for such individual by an S corporation, partnership, limited liability company, estate, or trust. ()

b. If an individual receives a refund due to a refundable credit for all or part of the income tax paid by the pass-through entity, the amount of the refund attributable to the refundable credit reduces the income tax paid by the pass-through entity. ()

c. The credit may not exceed the proportion of the tax otherwise due to Idaho that the adjusted gross income of the individual derived from sources in the other state as modified by Chapter 30, Title 63, Idaho Code, bears to total adjusted gross income for the individual so modified. ()

d. The credit allowed to an estate or trust may not exceed the proportion of the tax otherwise due to

Idaho that the federal total income of the estate or trust derived from sources in the other state and taxed by that state bears to the federal total income of the estate or trust. ()

i. Federal total income of the estate or trust derived from sources in the other state is to be determined using the Idaho sourcing rules applicable to nonresidents found in Section 63-3026A, Idaho Code and related rules. Income derived from the ownership or disposition of any interest in real or tangible personal property located in the other state is to be considered to be income derived from sources in the other state. Interest income earned on a bank account generally would not be income derived from sources in the other state as provided in Rule 266 of these rules. ()

05. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

701. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY: PART-YEAR RESIDENTS (RULE 701).
Section 63-3029, Idaho Code

01. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

702. -- 704. (RESERVED)

705. CREDIT FOR CONTRIBUTIONS TO EDUCATIONAL INSTITUTIONS FOR TAXABLE YEARS BEGINNING AFTER 2010 (RULE 705).
Section 63-3029A, Idaho Code

01. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate or trust and passed through to the partner, shareholder, or beneficiary. ()

02. Other Limitations. ()

a. This credit plus other nonrefundable credits may not reduce the taxpayer's tax liability below zero (0). ()

03. Effect on Itemized Deductions. The credit allowed does not reduce the amount of charitable contributions that may be included in itemized deductions. ()

04. Nonprofit Public and Private Museums. To qualify as a museum pursuant to Section 63-3029A, Idaho Code, the public or private nonprofit institution must be organized for the purpose of collecting, preserving, and displaying objects of aesthetic, educational, or scientific value and must be open to the general public on a regular basis. ()

706. -- 709. (RESERVED)

710. IDAHO INVESTMENT TAX CREDIT: IN GENERAL (RULE 710).
Section 63-3029B, Idaho Code

01. Credit Allowed. The investment tax credit allowed by Section 63-3029B, Idaho Code, applies to investments made during tax years beginning on and after January 1, 1982, that qualify pursuant to Sections 46(c), 47, and 48, Internal Revenue Code, as in effect prior to amendment by Public Law 101-508. Investments must also meet the requirements of Section 63-3029B, Idaho Code. ()

02. Limitations. The investment tax credit allowable in any taxable year will be limited by the following: ()

a. Tax liability. ()

i. For taxable years beginning on or after January 1, 2000, the credit claimed may not exceed fifty percent (50%) of the tax after credit for taxes paid another state. ()

ii. For taxable years beginning on or after January 1, 1995 and before January 1, 2000, the credit claimed may not exceed forty-five percent (45%) of the tax after credit for taxes paid another state. ()

b. Unitary taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. ()

c. Nonrefundable credits. The investment tax credit is a nonrefundable credit. It is applied to the income tax liability in the priority order for nonrefundable credits described in Rule 799 of these rules. ()

d. Used Property Limitation. The term used property limitation means the one hundred fifty thousand dollar (\$150,000) limitation imposed by Section 48, Internal Revenue Code of 1986 prior to November 5, 1990. ()

03. Carryovers. ()

a. Investment tax credit earned on investments made on or after January 1, 1990, but not claimed against tax in the year earned is eligible for a seven (7) year carryover. If a credit carryover from these years is available to be carried into taxable years beginning on or after January 1, 2000, the credit carryover is extended from seven (7) years to fourteen (14) years. ()

b. Investment tax credit earned on investments made in taxable years beginning on or after January 1, 2000, but not claimed against tax in the year earned is eligible for a fourteen (14) year carryover. ()

04. Motor Vehicle. Motor vehicle means a self-propelled vehicle that is registered or may be registered for highway use pursuant to the laws of Idaho. Gross vehicle weight is determined by the manufacturer's specified gross vehicle weight. ()

05. Expensed Property. The cost of property that the taxpayer elects to expense pursuant to Section 179, Internal Revenue Code, is not a qualified investment. ()

06. Bonus Depreciation. The cost of property that the taxpayer elects to deduct as bonus first-year depreciation pursuant to Section 168(k), Internal Revenue Code, is not a qualified investment when the bonus first-year depreciation was also allowed in computing depreciation for Idaho. ()

07. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

711. IDAHO INVESTMENT TAX CREDIT: TAXPAYERS ENTITLED TO THE CREDIT (RULE 711).
Section 63-3029B, Idaho Code

01. Unitary Taxpayers. A corporation included as a member of a unitary group may elect to share the investment tax credit it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the investment tax credit to the extent allowable against its tax liability. ()

a. The credit available to be shared is the amount of investment tax credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029B(4), Idaho Code. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward. ()

b. In the taxable year when a corporation that earned the investment tax credit is acquired or disposed of, only a portion of the tax of the other members of the unitary group may be offset with shared investment tax credit from that corporation. To determine the allowable portion of the tax, a percentage is calculated by dividing the number of days that the corporation that earned the investment tax credit is included in the unitary group's taxable year by the total number of days in the taxable year. The tax for each member with an Idaho filing requirement is multiplied by the percentage. The result is the amount of tax that can be offset with a share of the credit, subject to other limitations imposed by law or related rules. ()

02. Conversion of C Corporation to S Corporation. ()

a. An investment tax credit carryover earned by a C corporation that has converted to an S corporation is allowed against the S corporation's tax on net recognized built-in gains and excess net passive income. The credit is allowed against this tax until the carryover period has expired. The credit is not allowed against the tax computed pursuant to Section 63-3022L, Idaho Code. In addition, the credit may not be passed through to the S corporation shareholders. ()

b. The election to file as an S corporation does not cause recapture of investment tax credit. However, the S corporation is liable for any recapture of credit originally claimed by the C corporation as provided by Rule 715 of these rules. ()

03. Agricultural Cooperatives. The portion of the investment tax credit earned by an agricultural cooperative that it cannot use for the taxable year is to be allocated to the members of the cooperative. If qualifying property is disposed of or ceases to qualify prior to the close of its estimated useful life, the recapture of credit as provided by Rule 715 of these rules applies as though the cooperative did not allocate any of the original credit to the members. ()

a. The investment tax credits claimed by the agricultural cooperative and its members may not be more than one hundred percent (100%) of the credit earned. ()

04. Leased Property. Generally, the credit for qualified investments in leased property is claimed by the lessor. A lessee may claim the investment tax credit on leased property only as provided in Paragraphs 711.04.a. and 711.04.b. of this rule. ()

a. If the lessor elected to pass the investment tax credit to the lessee and filed the federal election pursuant to the Internal Revenue Code and Treasury Regulations prior to the 1986 Tax Reform Act, the investment tax credit is to be claimed by the lessee. Both parties must attach the original election and a schedule identifying the qualifying property. ()

b. If a taxpayer is a lessee in a conditional sales contract, he is entitled to the investment tax credit on any qualifying property subject to the contract since the lessee is considered the purchaser of the property. ()

712. -- 713. (RESERVED)

714. IDAHO INVESTMENT TAX CREDIT: CREDIT EARNED ON PROPERTY USED BOTH IN AND OUTSIDE IDAHO IN TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 1995 (RULE 714).
Section 63-3029B, Idaho Code

01. In General. Property must be used at least part of the time in Idaho to qualify for the investment tax credit, provided it otherwise qualifies for the credit. It must also be used in Idaho in each taxable year during the recapture period. ()

02. Election of Methods. The taxpayer must elect to compute the investment tax credit on property used both in and outside Idaho using either the percentage-of-use method or the amount of that property correctly included in the Idaho property factor numerator. The credit for all property used both in and outside Idaho must be computed using the method elected. ()

a. Percentage-of-Use Method. If the percentage-of-use method is elected, the basis of each qualified asset is multiplied by the percentage of time, miles, or other measure that accurately reflects the use of that asset in Idaho. The use of aircraft within and without Idaho during the taxable year will be determined by the ratio of departures from locations in Idaho to total departures. ()

b. Property Factor Method. If the property factor numerator option is elected, the qualified investment is the basis of the asset correctly included in the numerator of the Idaho property factor for the year the credit is earned. ()

i. The amounts of investment tax credit computed under the percentage-of-use method and the property factor numerator option are generally the same. Differences may result when a taxpayer uses certain MTC special industry regulations that allow the taxpayer to vary from using the percentage-of-use method for determining the Idaho numerator for each item of mobile property, and instead allow another method, such as the ratio of mobile property miles in the state compared to total mobile property miles or the ratio of departures of aircraft from locations in the state compared to total departures. These special industry regulations include the regulations for airlines, railroads, and trucking companies. See Rule 580 of these rules for a list of the special industries. ()

ii. “Correctly included in the numerator of the Idaho property factor” means that the amount included in the Idaho property factor numerator was correctly computed using Section 63-3027, Idaho Code, and related rules including any MTC special industry regulations that apply to the taxpayer. If the amount included in the Idaho property factor numerator exceeds the amount that should have been included using Section 63-3027, Idaho Code and related rules, the investment tax credit will be allowed only on the amount that reflects the correct calculation for purposes of computing the Idaho property factor numerator. For example, a taxpayer includes one hundred percent (100%) of the basis of an asset in the Idaho property factor numerator, but the amount correctly computed under Section 63-3027, Idaho Code, should have been fifty percent (50%) of the basis of the asset. The investment tax credit will be allowed only on the fifty percent (50%) of the basis of the asset. ()

03. Order of Limitations. The qualified investment in property used both in and outside Idaho is determined by first applying the rules of this section and then the used property limitations outlined in Rule 710. ()

04. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

715. IDAHO INVESTMENT TAX CREDIT: RECAPTURE (RULE 715).
Section 63-3029B, Idaho Code

01. In General. If a taxpayer is claiming or has claimed the investment tax credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit will be made. ()

02. Recomputation of the Investment Tax Credit. ()

a. The recomputation of the credit and any recapture of prior credits is made pursuant to the Internal Revenue Code and Treasury Regulations for the taxable year in which the property is disposed of or ceases to qualify. ()

b. The recapture is computed by multiplying the credit by the applicable recapture percentage in Subsection 715.04. ()

c. The recapture of credit previously claimed against tax in prior taxable years is an addition to tax in the taxable year in which the property is disposed of or ceases to qualify. The addition to tax does not affect the computation of limitations used to determine the amount of investment tax credit or any other Idaho credit that may be claimed in the year of the recapture. ()

03. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. ()

04. Applicable Recapture Percentages. For qualified business property placed in service after December 31, 1990, the recapture amount is computed by multiplying the credit earned by the applicable recapture percentage. The length of time the asset qualifies determines the recapture percentage as follows: ()

a. If less than one (1) year, use one hundred percent (100%); ()

b. If more than one (1) year but less than two (2) years, use eighty percent (80%); ()

c. If more than two (2) years but less than three (3) years, use sixty percent (60%); ()

- d. If more than three (3) years but less than four (4) years, use forty percent (40%); ()
- e. If more than four (4) years but less than five (5) years, use twenty percent (20%). ()

716. IDAHO INVESTMENT TAX CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 716).
Section 63-3029B, Idaho Code

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the investment tax credit claimed on an income tax return subject to examination. The records must include all of the following: ()

- a. A description of the property; ()
- b. The asset number assigned to the item of property, if applicable; ()
- c. The acquisition date and date placed in service; ()
- d. The basis of the property; ()
- e. The class of the property for recovery property or the estimated useful life for nonrecovery property; ()
- f. The designation as new or used property; ()
- g. The location and utilization (the usage both in and outside Idaho) of the property; ()
- h. The retirement, disposition, or date transferred out of Idaho, or date no longer used in Idaho, if applicable; and ()
- i. The reason for acquisition if acquired prior to January 1, 1995. ()

02. Accounting Records Subject to Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: ()

- a. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information. ()
- b. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents. ()
- c. Records verifying ownership including purchase contracts and cancelled checks. ()
- d. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho. ()
- e. Purchase orders, authorizations for expenditures or other records that identify the reason for acquisition for property acquired prior to January 1, 1995. ()
- f. Log books measuring the use of property used both in and outside Idaho. These logs must be maintained for each item of property on which investment tax credit is claimed. These logs should measure use of property in accordance with the most accurate method for measuring the extent of use in Idaho. For example, use in Idaho of trucks, trailers, locomotives, and railcars are to be calculated according to actual mileage in and outside Idaho. ()
- g. A system that verifies that property on which the investment tax credit was claimed continues to

maintain its status as Idaho qualifying property throughout the recapture period. ()

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. ()

04. Unitary Taxpayers. Corporations claiming investment tax credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. ()

717. -- 718. (RESERVED)

719. IDAHO INVESTMENT TAX CREDIT: PROPERTY TAX EXEMPTION IN LIEU OF (RULE 719).
Section 63-3029B, Idaho Code

01. In General. Beginning with calendar year 2003, a qualifying taxpayer may elect a two (2) year property tax exemption on personal property placed in service during the year. Property placed in service prior to January 1, 2003, does not qualify for the exemption. The personal property must be qualified investment as defined in Section 63-3029B, Idaho Code, and Rules 710 through 716 of these rules. If the property tax exemption is elected on an item of personal property, the taxpayer may not earn the investment tax credit on that item. The election is irrevocable. ()

02. Terms. As used in this rule: ()

a. Qualifying Taxpayer. A taxpayer must meet both of the following requirements to qualify for the property tax exemption on personal property. ()

i. The taxpayer's rate of charge or rate of return must not be regulated or limited by federal or state law. For example, if a corporation's rate of return is set by the Public Utilities Commission, that corporation is to not be eligible to claim the property tax exemption on any personal property it may place in service. The corporation may claim investment tax credit on the property if the property is qualified investment under Section 63-3029B, Idaho Code. Each corporation included in a unitary group is to determine whether its rate of charge or rate of return is regulated or limited by federal or state law based solely on its own activities. ()

ii. The taxpayer must have had negative Idaho taxable income in the second preceding taxable year. ()

b. Second Preceding Taxable Year. The term second preceding taxable year means the second preceding taxable year from the taxable year in which the property is placed in service. ()

03. Negative Idaho Taxable Income in Second Preceding Taxable Year. ()

a. Net Operating Loss Carryovers and Carrybacks. Negative Idaho taxable income in the second preceding taxable year is to be determined prior to the application of any Idaho net operating loss carryforwards or carrybacks. ()

b. Taxable year, for purposes of this calculation, includes a short taxable year as defined by the Internal Revenue Code. ()

c. Unitary Taxpayers. Each corporation included in a unitary combined group is to use its Idaho taxable income, as determined pursuant to Section 63-3027, Idaho Code, to determine whether it had negative Idaho taxable income in the second preceding taxable year. See Rule 365 of these rules for more information on how unitary corporations determine their Idaho taxable income. ()

d. Pass-Through Entities. A taxpayer who is a partnership or an S corporation does not qualify for the property tax exemption unless the total of its net business income apportioned to Idaho and its nonbusiness income or loss allocated to Idaho is negative for the second preceding taxable year. ()

e. Return Not Filed. If a taxpayer has not filed an Idaho income tax return for the second preceding taxable year so that the loss can be verified, the taxpayer is not entitled to the exemption. ()

04. Used Property Limitation. ()

a. In General. The cost of used property that a taxpayer may take into account for any taxable year in computing qualified investment does not exceed one hundred fifty thousand dollars (\$150,000). This includes the cost of property the taxpayer placed in service during the taxable year and also his share of the cost of property placed in service during the taxable year by a partnership, S corporation, estate or trust. Because property must be qualified investment to qualify for the property tax exemption, the taxpayer is limited to one hundred fifty thousand dollars (\$150,000) for purposes of determining the property tax exemption. ()

b. Selection of Items of Used Property. If the cost of the taxpayer's used property eligible for the investment tax credit exceeds the used property limitation, the taxpayer must select the particular items of used property the cost of which is to be taken into account in computing qualified investment. When the taxpayer selects a particular item, the entire cost or the taxpayer's share of cost of the particular item must be taken into account unless the one hundred fifty thousand dollar (\$150,000) limitation is exceeded. ()

c. Electing Property Tax Exemption on Selected Used Property Items. Once the taxpayer has selected the particular items of used property, the cost of which is to be taken into account in computing qualified investment, the taxpayer is to determine whether he may elect the property tax exemption on the items selected. If an item qualifies as personal property and the taxpayer had a negative Idaho taxable income in the second preceding taxable year, the taxpayer may elect to claim the property tax exemption on the item in lieu of earning the investment tax credit. ()

05. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

720. CREDIT FOR IDAHO RESEARCH ACTIVITIES: IN GENERAL (RULE 720).
Section 63-3029G, Idaho Code

01. Definitions. The Idaho credit is computed using the same definitions of qualified research expenses, qualified research, basic research payments, and basic research as are found in Section 41, Internal Revenue Code, except only the amounts related to research conducted in Idaho qualify for the Idaho credit. If an expense does not qualify for the federal credit under Section 41, Internal Revenue Code, it will not qualify for purposes of the Idaho credit. ()

02. Limitations. The credit for Idaho research activities allowable in any taxable year is limited as follows: ()

a. Tax Liability. The total amount of any credit for Idaho research activities claimed during a taxable year may not exceed one hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the credit for Idaho research activities, regardless of whether the credit for Idaho research activities results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. ()

b. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. ()

03. Short Taxable Year Calculations. Short taxable year calculations provided in Section 41, Internal Revenue Code, and related regulations are used to compute the Idaho credit if the taxpayer must use short taxable year calculations for purposes of computing the federal credit. ()

721. CREDIT FOR IDAHO RESEARCH ACTIVITIES: ELECTIONS (RULE 721).
Section 63-3029G, Idaho Code

01. Election to Be Treated as a Start-Up Company. Regardless of whether a taxpayer qualifies as a start-up company for purposes of the federal credit for increasing research activities under Section 41, Internal

Revenue Code, a taxpayer may elect to be treated as a start-up company for the credit for Idaho research activities. ()

- a. The election once made is irrevocable. ()
- b. The election is made by checking the appropriate box on Form 67. ()
- c. A taxpayer who makes the election under Section 63-3029G, Idaho Code, to be treated as a start-up company must use the fixed-base percentage that would be used by the taxpayer if the taxpayer had qualified as a start-up company for purposes of the federal credit under Section 41, Internal Revenue Code. ()

02. Unitary Sharing. A corporation included as a member of a unitary group may elect to share the credit for Idaho research activities it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the credit for Idaho research activities to the extent allowable against its tax liability. The credit available to be shared is the amount of credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029G(3), Idaho Code. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

722. (RESERVED)

723. CREDIT FOR IDAHO RESEARCH ACTIVITIES: RECORD-KEEPING REQUIREMENTS (RULE 723).

Section 63-3029G, Idaho Code

01. Information Required. Each taxpayer must retain and make available, on request, records for each item included in the computation of the credit for Idaho research activities claimed on an Idaho income tax return. The records must include all of the following: ()

- a. Verification that the research was conducted in Idaho; ()
- b. Verification that wages included in the computation were for qualified service performed by an employee in Idaho; ()
- c. Verification that supplies included in the computation were used for research conducted in Idaho; ()
- d. Verification that contract research expenses were for research conducted in Idaho; ()
- e. Verification that the research activities meet the definition of qualified research; and ()
- f. Verification that the amounts included in the Idaho computation are includable in the computation of the federal credit allowed by Section 41, Internal Revenue Code. ()

02. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. ()

03. Unitary Taxpayers. Corporations claiming the credit for Idaho research activities must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. ()

724. -- 729. (RESERVED)

730. CREDIT FOR CONTRIBUTIONS TO IDAHO YOUTH FACILITIES, REHABILITATION FACILITIES AND NONPROFIT SUBSTANCE ABUSE CENTERS (RULE 730).

Section 63-3029C, Idaho Code

01. Qualified Contributions. Contributions must be made in cash or in kind during the taxable year the credit is claimed. Unpaid pledges do not qualify as contributions. Fees for services provided, room and board, and similar charges are not contributions. ()

02. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate or trust and passed through to the partner, shareholder, or beneficiary. ()

03. Effect on Itemized Deductions. The credit allowed does not reduce the amount of charitable contributions that may be included in itemized deductions. ()

731. -- 749. (RESERVED)

750. BROADBAND EQUIPMENT INVESTMENT CREDIT: IN GENERAL (RULE 750).

Section 63-3029I, Idaho Code

01. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. ()

02. Transferred Credit. Limitations apply to each transferee as if the transferee had earned the credit. ()

i. The fourteen (14) year carryover period provided by section 63-3029I(7), Idaho Code, extends throughout the fourteen (14) taxable years following the year in which the equipment was installed. The fourteen (14) year carryover period begins to run regardless of whether the taxpayer has sought and received approval from the Idaho public utilities commission (PUC). ()

ii. Once a taxpayer has received the approval order from the PUC, the broadband tax credit may be claimed or transferred. If the statute of limitations has expired for filing a return to claim the credit for the taxable year of the installation, the taxpayer cannot claim any credit for that taxable year, but must calculate how much of the credit the taxpayer could have used to determine the amount of credit available to carry forward pursuant to section 63-3029I(7), Idaho Code. ()

iii. Example: A calendar year filer installed qualifying equipment on July 20, 2001. However, it was not until 2013 that the taxpayer sought and received the approval order from the PUC. The fourteen (14) year carryover period already began to run based on the installation date and will expire at the end of the 2015 taxable year. On March 10, 2013 the taxpayer is preparing his tax returns and considering how much broadband credit is available and to which taxable years it could be applied to. The taxpayer can file an amended return to claim the credit starting with taxable year 2009 (prior years would be out of the statute of limitations for filing an amended return assuming all returns had been timely filed and no other special circumstances had held the period open). The taxpayer must look back to taxable year 2001 (the year of installation) to see how much credit the taxpayer could have used in each taxable year up to 2009 to determine how much credit carryover amount is still available pursuant to the carryover limitations of section 63-3029I(7), Idaho Code. The taxpayer must use up or transfer any unused credit before taxable year 2016; after taxable year 2015, the carry forward period will expire and any unused credit will no longer be available for the taxpayer to apply or transfer. ()

03. Taxpayers Entitled to the Credit. Rule 711 of these rules will apply to the broadband equipment investment credit except that limitations referenced in Subsection 711.01 of these rules will be those limitations as provided in Section 63-3029I, Idaho Code. ()

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. ()

751. -- 752. (RESERVED)

753. BROADBAND EQUIPMENT INVESTMENT CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 753).

Section 63-3029I, Idaho Code

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the broadband equipment investment credit claimed on an income tax return subject to examination. The records must include all of the following: ()

- a.** The order from the Idaho Public Utilities Commission confirming that the installed equipment is qualified broadband equipment. ()
- b.** A description of the property; ()
- c.** The asset number assigned to the item of property, if applicable; ()
- d.** The acquisition date and date placed in service; ()
- e.** The basis of the property; and ()
- f.** The retirement, disposition, or date transferred out of Idaho, or date no longer used in Idaho, if applicable. ()

02. Accounting Records Subject to Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: ()

- a.** Source documents supporting the application to the Idaho Public Utilities Commission; ()
- b.** Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; ()
- c.** Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; ()
- d.** Records verifying ownership including purchase contracts and cancelled checks; ()
- e.** Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho; and ()
- f.** A system that verifies that property on which the broadband equipment investment credit was claimed continues to maintain its status as Idaho qualifying property throughout the recapture period. ()

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. ()

04. Unitary Taxpayers. Corporations claiming broadband equipment investment credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. ()

05. Credit Transferred. A taxpayer that transfers the broadband equipment investment credit is to continue to be subject to the record-keeping requirements of this rule for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. ()

754. -- 770. (RESERVED)

771. GROCERY CREDIT: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007 (RULE 771).
Section 63-3024A, Idaho Code

01. Residents. ()

a. The additional twenty dollar (\$20) credit may not be claimed for other dependents who are age sixty-five (65) or older. ()

02. Part-Year Residents. A part-year resident is entitled to a prorated credit based on the number of months he was domiciled in Idaho during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. If the credit exceeds his tax liability, the part-year resident is not entitled to a refund. ()

03. Circumstances Causing Ineligibility. A resident or part-year resident individual is not eligible for the credit for the month or part of the month for which the individual: ()

a. Received assistance under the federal food stamp program; or ()

b. Was incarcerated. ()

04. Nonresidents. A nonresident is not entitled to the credit even though the individual may have been employed in Idaho for the entire year. ()

05. Members of the Uniformed Services. A member of the uniformed services who is: ()

a. Domiciled in Idaho is entitled to this credit; ()

b. Residing in Idaho but who is a nonresident pursuant to the Servicemembers Civil Relief Act is not entitled to this credit. ()

06. Spouse or Dependents of Members of the Uniformed Services. Beginning on January 1, 2009, a spouse of a nonresident member of the uniformed services stationed in Idaho who has the same domicile as the military service member's home of record and who is residing in Idaho solely to be with the servicemember is a nonresident and is not entitled to the grocery credit. A spouse who is domiciled in Idaho is entitled to the credit. The domicile of a dependent child is presumed to be that of the nonmilitary spouse. ()

772. -- 774. (RESERVED)

775. CREDIT FOR LIVE ORGAN DONATION EXPENSES (RULE 775).
Section 63-3029K, Idaho Code

01. Live Organ Donation Expenses. Qualifying expenses is to be directly related to a live organ donation by the taxpayer or by a dependent of the taxpayer and includes the following: ()

a. The unreimbursed cost of travel paid by the taxpayer to and from the place where the donation operation occurred. ()

b. Unreimbursed lodging expenses paid by the taxpayer. ()

c. Wages or other compensation lost because of the taxpayer's absence from work during the donation procedure and convalescence. ()

776. -- 784. (RESERVED)

785. CREDITS: PASS-THROUGH ENTITIES (RULE 785).
Section 63-3029(a), Idaho Code

01. In General. A credit earned by a partnership, S corporation, estate, or trust generally is claimed on the income tax returns of the partners, shareholders, or beneficiaries of the entity. ()

a. Partnerships. A credit passes through to a partner based on that partner's distributive share of partnership profits. ()

b. S Corporations. A credit passes through to a shareholder based on that shareholder's pro rata share of income or loss. ()

c. Estates and Trusts. A credit passes through to a beneficiary in the same ratio that income is allocable to that beneficiary. ()

d. Idaho credits may not pass through to partners or owners based on special allocations. ()

02. Limitations. ()

a. In General. Credits claimed on a partner's, shareholder's, or beneficiary's tax return may not exceed the limitations imposed by statute or rule. ()

03. Carryovers. Carryovers of credit are allowed to the partner, shareholder, or beneficiary to the extent provided by statute or rule. ()

04. Different Taxable Year Ends. If a pass-through entity has a taxable year end different from that of a partner, shareholder, or beneficiary, the credit is available in the same taxable year that income or loss from that entity is reported. ()

05. Information Provided by a Pass-Through Entity. The pass-through entity is to prepare and distribute to each partner, shareholder, or beneficiary a schedule detailing the proportionate share of each credit earned and any recapture that is required. Copies of these schedules are to be attached to the pass-through entity's Idaho income tax return or information return for the taxable year that the credit is earned and to each return on which the credit is claimed. ()

06. Pass-Through Entities That Pay Tax. ()

a. A pass-through entity may apply and may recapture credits that generally pass through to the partner, shareholder, or beneficiary for whom the pass-through entity is paying the tax. For example, Idaho investment tax credit earned that would have passed through to the owner or beneficiary could be claimed by the pass-through entity subject to the applicable limitations. Limitations based on the tax liability apply to each owner's or beneficiary's tax liability being paid by the pass-through entity. ()

b. The partner, shareholder or beneficiary is responsible for the recapture or recomputation of credits passed through to the partner, shareholder, or beneficiary. ()

c. Carryovers that exist after a pass-through entity offsets the tax with credit available to that partner, shareholder or beneficiary, remain a carryover of the partner, shareholder or beneficiary. ()

07. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

786. -- 789. (RESERVED)

790. TRANSFER OF CREDIT: IN GENERAL (RULE 790).
Sections 63-3029I Idaho Code

01. Terms. For purposes of Rules 790 through 795 of these rules, the following terms have the stated meanings: ()

a. Transferor. The taxpayer who earns the credit and sells, conveys, or transfers the credit to another

taxpayer are referred to as the transferor. ()

b. Transferee. The taxpayer who receives the credit from the transferor or intermediary is referred to as the transferee. ()

791. TRANSFER OF CREDIT: NOTIFICATION OF INTENDED TRANSFER (RULE 791).
Sections 63-3029I Idaho Code

01. Timing of Notification. A taxpayer who intends to transfer qualified credit is to notify the Tax Commission in writing of its intent to transfer the credit at least sixty (60) days prior to the date of the transfer. A transfer may not take place prior to the Tax Commission providing its response as to the amount of credit available and the years the credit may be carried forward. ()

02. Information Required. A transferor or intermediary is to notify the Tax Commission by submitting the following information on a form prescribed by the Tax Commission: ()

a. Name, address, and federal employer identification number of the transferor or intermediary; ()

b. Name, address, and federal employer identification number of the transferee; ()

c. Type of credit to be transferred; ()

d. Amount of credit to be transferred; ()

e. Date of intended transfer; ()

f. Signature of authorized individual for transferor or intermediary; and ()

g. A copy of the Idaho Form 68, Idaho Broadband Equipment Investment Credit and required schedules for each tax year the credit being transferred was earned. ()

792. (RESERVED)

793. TRANSFER OF CREDIT: TRANSFEREE (RULE 793).
Sections 63-3029I Idaho Code

01. Tax Year Credit Available. A transferee may first claim the transferred credit on an income tax return originally filed during the calendar year in which the transfer takes place. However, if the transferee did not claim the transferred credit on his original return filed during the calendar year in which the transfer takes place, he may not amend such return to claim the credit for that tax year. ()

02. Carryover Period. If a credit is transferred, the transferee is entitled to any remaining carryover period that would have been allowed to the transferor or intermediary had the credit not been transferred. The Tax Commission is to verify the carryover period. The carryover period approved applies to the taxable year of the transferee that begins in the calendar year in which the transferor's taxable year begins. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

794. -- 798. (RESERVED)

799. PRIORITY ORDER OF CREDITS AND ADJUSTMENTS TO CREDITS (RULE 799).
Section 63-3029P, Idaho Code

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. ()

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: ()

- a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; ()
- b. For part-year residents only, the grocery credit as authorized by Section 63-3024A, Idaho Code; ()
- c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; ()
- d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; ()
- e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; ()
- f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; ()
- g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; ()
- h. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; ()
- i. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and ()
- j. Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. ()
- k. Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. ()
- l. Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. ()
- m. Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. ()
- n. Idaho child tax credit as authorized by Section 63-3029L, Idaho Code. ()
- o. Credit for employer contributions to employee's Idaho college savings program account as authorized by Section 63-3029M, Idaho Code. ()

03. Adjustments to Credits. ()

a. Adjustments to the amount of a credit earned is determined pursuant to the law applicable to the taxable year in which the credit was earned. ()

b. Adjustments to the amount of a credit earned may be made even though the taxable year in which the credit was earned is closed due to the statute of limitations. Such adjustments to the earned credit also applies to any taxable years to which the credit was carried over. ()

c. If the taxable year in which the credit was earned or carried over to is closed due to the statute of limitations, any adjustments to the credit earned does not result in any tax due or refund for the closed taxable years. However, the adjustments may result in tax due or a refund in a carryover year if the carryover year is open to the statute of limitations. ()

800. VALID INCOME TAX RETURNS (RULE 800).
Section 63-3030, Idaho Code

01. Requirements of a Valid Income Tax Return. In addition to the requirements set forth in IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 150, an income tax return is to meet the requirements set forth in this rule. Those that fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be completed according to these requirements and resubmitted to the Tax Commission. A taxpayer who does not file a valid income tax return is considered to have filed no return. ()

02. Copy of Federal Return Required. A taxpayer is to include with the Idaho return a complete copy of the federal income tax return including all forms, schedules and attachments. ()

03. Verification of Idaho Income Tax Withheld. A taxpayer who files an Idaho individual income tax return that is submitted on paper and reports Idaho income tax withheld is to attach appropriate Forms W-2 and 1099 and other information forms that verify the amount of the Idaho income tax withheld and claimed on the Idaho income tax return. Returns filed electronically is to include the W-2 and 1099 information in the electronic record transmitted. ()

801. PERSONS REQUIRED TO FILE INCOME TAX RETURNS (RULE 801).
Section 63-3030, Idaho Code

01. In General. Persons who meet the filing requirements under Section 63-3030, Idaho Code, will file Idaho income tax returns unless otherwise provided in the Idaho Income Tax Act or by federal law. ()

02. Individuals Who Make Elections Under Section 63-3022L, Idaho Code. For taxable years beginning prior to January 1, 2012, if an individual partner, member, shareholder, or beneficiary is qualified and makes an election under Section 63-3022L, Idaho Code, for the entity to pay the tax attributable to his income from the entity, such individual will not be required to file an Idaho individual income tax return for that taxable year. ()

03. Corporations Included in a Unitary Group. A unitary group of corporations may file one (1) Idaho corporate income tax return for all the corporations of the unitary group that are required to file an Idaho income tax return. Use of the group return precludes the need for each corporation to file its own Idaho corporate income tax return. ()

04. Taxpayers Protected Under Public Law 86-272. A taxpayer whose Idaho business activities fall under the protection of Public Law 86-272 is not required to file an Idaho income tax return since the taxpayer is exempt from the tax imposed under the Idaho Income Tax Act. If a taxpayer is a member of a unitary group, it will be included in the combined report although it is exempt from the income tax. The taxpayer's property, payroll, and sales will be included in the computation of the group factor denominators and its business income will be included in the computation of apportionable income for the unitary group. ()

802. -- 804. (RESERVED)

805. JOINT RETURNS (RULE 805).
Sections 63-3031, 32-201, and 32-209, Idaho Code

01. In General. ()

a. If a married couple files a joint return and the due date for filing a separate return has expired for either spouse, separate returns may not be filed thereafter. ()

02. Resident Aliens or United States Citizens Married to Nonresident Aliens. A United States citizen or resident married to a nonresident alien may elect to treat the spouse as a resident alien allowing them to file a joint return. In this case they are taxed on their worldwide income. The individuals must be able to provide all records and information necessary to determine their tax liability. A statement declaring the election is to be attached to the return for the first taxable year for which the election is to apply. In addition, the statement will include the name, address, and taxpayer identification number of each spouse, and is to be signed by both individuals making the election. ()

03. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

806. -- 809. (RESERVED)

810. TIME FOR FILING INCOME TAX RETURNS (RULE 810).

Section 63-3032, Idaho Code

A fifty-two fifty-three (52-53) week year is considered to end on the last day of the calendar month ending nearest to the last day of that taxable year. ()

811. -- 819. (RESERVED)

820. CORPORATE ESTIMATED PAYMENTS: IN GENERAL (RULE 820).

Section 63-3036A, Idaho Code

01. Estimated Tax. The term estimated tax means the corporation's anticipated tax as imposed by this Chapter including the permanent building fund tax, plus any recapture of Idaho income tax credits, less the sum of any income tax credits. Estimated payments and non-income tax credits are not included as a credit. ()

02. Computation of Estimated Payments. ()

a. The tax required to be reported on the preceding year's return and the tax required to be paid on the current year's return means Idaho taxable income multiplied by the corporate income tax rate with a minimum of twenty dollars (\$20), plus the permanent building fund tax, plus the recapture of income tax credits, less income tax credits excluding estimated payments. ()

b. An estimated payment is not required if an Idaho return was not required for the previous taxable year. ()

03. Revised Income Estimate. If, after making one or more estimated payments for a taxable year, a corporation makes a new estimate of its current year income, it recomputes its estimated tax. If the corporation has paid its new estimated tax in prior estimated payments, no payment is due. ()

04. Net Operating Loss or Capital Loss Carryover. The allowable net operating loss carryover or capital loss carryover is to be deducted from income for the period before the estimated tax is computed. ()

821. CORPORATE ESTIMATED PAYMENTS: PAYMENTS (RULE 821).

Section 63-3036A, Idaho Code

01. Underpayments. A payment of estimated tax is to be applied to previous estimated payments of estimated tax in the order in which the estimated payments were required to be paid. To the extent the payment exceeds previous underpayments, it applies to the estimated payment then due. ()

02. Overpayments. ()

a. If the estimated payments exceed the actual tax due, the overpayment may be claimed as a credit against the next payment only to the extent it exceeds all underpayments of prior estimated payments. ()

b. The overpayment is to be applied to deficiencies of tax, penalties, and interest prior to refund or application to a subsequent year's estimated payment or tax liability. ()

c. A refund or credit may not be made to a corporation that fails to file its Idaho income tax return within three (3) years from the due date of the return for which it made the estimated payments. ()

03. Obligation to File Returns. The payment of estimated tax does not relieve a corporation of the obligation to file a return when due pursuant to the Idaho Income Tax Act. An extension of time is not allowed for payment of estimated taxes. Making estimated payments as required in Section 63-3036A, Idaho Code, does not

relieve the taxpayer of the requirement to pay the appropriate amount of tax with an application for extension of time to file or with the original return. ()

822. CORPORATE ESTIMATED PAYMENTS: ANNUALIZED INCOME INSTALLMENT METHOD (RULE 822).

Section 63-3036A, Idaho Code

01. In General. ()

a. If a corporation uses the annualized income installment method for federal purposes and is required to make estimated payments for Idaho purposes, the corporation may use that method to compute its Idaho estimated tax. If a corporation does not use the annualized income installment method for federal purposes, the corporation may not use that method for Idaho purposes. ()

b. See Section 6655, Internal Revenue Code, for the determination of annualized income. ()

02. Required Installment. The required annualized income installment is the applicable percentage of the tax computed on the annualized income less the aggregate amount of any prior required installments for the reporting period. The applicable percentages for Idaho are: ()

a. Twenty-two and one-half percent (22.5%) for the first period; ()

b. Forty-five percent (45%) for the second period; ()

c. Sixty-seven and one-half percent (67.5%) for the third period; and ()

d. Ninety percent (90%) for the fourth period. ()

03. Computation of Tax. The tax computed on the annualized income includes the annualized income multiplied by the corporate income tax rate, plus the permanent building fund tax, plus recapture of investment tax credit, less any credits excluding estimated payments. ()

823. CORPORATE ESTIMATED PAYMENTS: SHORT TAXABLE YEAR (RULE 823).

Section 63-3036A, Idaho Code

If a short taxable year ends before an estimated payment due date, remaining estimated payments is to be made on the fifteenth day of the last month of the short taxable year. No estimated payment is required if the short taxable year is less than four (4) months or if the corporation does not meet the requirements to make an estimated payment before the first day of the last month in the short taxable year. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

824. CORPORATE ESTIMATED PAYMENTS: MISCELLANEOUS PROVISIONS (RULE 824).

Section 63-3036A, Idaho Code

01. Unitary Groups Filing Group Returns. ()

a. Each corporation included in a group return that is required to make estimated payments separately computes its estimated tax. ()

b. Estimated payments is to be made using the name and the federal employer identification number of the corporation whose name will be on the Idaho corporate income tax return. ()

02. S Corporations. An S corporation is subject to Section 63-3036A, Idaho Code, limited to its tax on net recognized built-in gains, excess net passive income and from recapture of Idaho income tax credits. ()

03. Tax-Exempt Organizations. A tax-exempt organization is subject to Section 63-3036A, Idaho Code, limited to its tax on unrelated business income. ()

825. CORPORATE ESTIMATED PAYMENTS: INTEREST ON UNDERPAYMENT (RULE 825).

Section 63-3046A, Idaho Code

01. In General. If a taxpayer is required to pay estimated taxes as provided in Section 63-3036A, Idaho Code, and fails to pay the amount of estimated taxes due, interest is due on the underpaid estimated taxes. ()

02. Net Operating Loss and Capital Loss Carrybacks. If the tax due for the taxable year is reduced after the application of a net operating loss carryback or a capital loss carryback, the interest on underpayment of estimated tax will not be recomputed. ()

826. -- 829. (RESERVED)

830. INFORMATION RETURNS (RULE 830).

Section 63-3037, Idaho Code

01. In General. Information returns are not required to be filed with the Tax Commission except as follows: ()

a. Form 1098, Mortgage Interest Statement, if the property was located in Idaho. ()

b. Form 1099-A, Acquisition or Abandonment of Secured Property, if the property was located in Idaho. ()

c. Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, if the property was located in Idaho or the service was performed in Idaho. ()

d. Form 1099-C, Cancellation of Debt, if the secured property was located in Idaho. ()

e. Form 1099-MISC, Miscellaneous Income, if it was issued for transactions related to property located or utilized in Idaho or for services performed in Idaho. ()

f. Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc., if Idaho income tax was withheld. ()

g. Form 1099-S, Proceeds From Real Estate Transactions, if it was issued for transactions related to property located in Idaho. ()

h. Form W-2G, Certain Gambling Winnings, if the gambling took place in Idaho. ()

i. Form 1099-NEC, Nonemployee Compensation, if it was issued for services performed in Idaho. ()

j. Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, if the income is from Idaho sources. ()

02. Submitting Returns. Information returns must be submitted to the Tax Commission through electronic filing or on a paper copy of federal Form 1099. ()

03. Due Date of Information Returns. Information returns are made on a calendar year basis. The due date for information returns submitted through electronic filing or on paper is the last day of February following the close of the calendar year. ()

04. Voluntary Withholding. Each person who withholds Idaho income tax from amounts reported on information returns required by Section 63-3037, Idaho Code, must: ()

a. Obtain an Idaho withholding account number as required by Rule 870 of these rules; and ()

b. Submit an annual reconciliation return to the Tax Commission and comply with the requirements provided for filing of annual reconciliation returns as discussed in Rule 872 of these rules. The reconciliation return must report amounts paid during the preceding calendar year and reconcile the state income tax withheld with the tax remitted for the preceding calendar year. The reconciliation return must be filed on or before the last day of January. ()

831. -- 854. (RESERVED)

855. PERMANENT BUILDING FUND TAX (RULE 855).

Sections 63-3082 through 63-3087, Idaho Code

01. Corporations Included in a Group Return. The permanent building fund tax applies to each member of a unitary group transacting business in Idaho, authorized to transact business in Idaho, or having income attributable to Idaho and included in a group return, except as provided in Subsection 855.05 of this rule. ()

02. Inactive or Nameholder Corporations. An inactive or nameholder corporation that files Form 41 to pay the twenty dollar (\$20) minimum tax must pay the permanent building fund tax. ()

03. Taxpayers Protected Under Public Law 86-272. The permanent building fund tax does not apply to a taxpayer whose Idaho business activities fall under the protection of Public Law 86-272, since the taxpayer is exempt from the tax imposed under the Idaho Income Tax Act and is not required to file an income tax return. ()

856. -- 859. (RESERVED)

860. DONATIONS TO TRUST ACCOUNTS (RULE 860).

Sections 63-3067A, 63-3067B, and 63-3067D, Idaho Code. A donation to a trust account may not be withdrawn or reduced once the return or amended return on which it was made is filed. ()

861. -- 869. (RESERVED)

870. REQUIREMENTS OF AN IDAHO WITHHOLDING ACCOUNT NUMBER (RULE 870).

Sections 63-3035 and 63-3036, Idaho Code

If a business is sold, the new employer is to apply for a new withholding account number and file separate returns and W-2s. If a change in the form of doing business requires a new federal employer identification number, the new entity is to apply for a new withholding account number. Neither entity should report wages paid by the other entity, nor use the other entity's withholding account number. ()

871. STATE INCOME TAX WITHHOLDING REQUIRED (RULE 871).

Sections 63-3035 and 63-3036, Idaho Code

01. Services Performed Within and Without Idaho. An employer is required to withhold only on the portion of the employee's total compensation that is reasonably attributable to services performed in Idaho regardless of his post of duty. Compensation may be allocated to Idaho based on workdays, hours, mileage, or commissions. ()

02. Exceptions to Withholding Requirements. Withholding is not required if: ()

a. The salaries, wages, tips, bonuses, and other compensation paid by an employer are for services performed wholly outside Idaho regardless of the residency or domicile of either the employer or employee. ()

b. The compensation is paid by the United States Armed Forces to a nonresident serving on active duty in Idaho; ()

c. The compensation is paid to an interstate transportation employee of a rail carrier covered by Title

49, Section 11502, United States Code, who is a nonresident of Idaho; or ()

d. The compensation is paid to an interstate transportation employee of a motor carrier covered by Title 49, Section 14503, United States Code, who is a nonresident of Idaho; or ()

e. The compensation is paid to an employee of an interstate air carrier covered by Title 49, Section 40116, United States Code, who is a nonresident of Idaho and earns fifty percent (50%) or less of his compensation in Idaho; or ()

f. The compensation is paid to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or to an individual employed on a fishing vessel or any fish processing vessel covered by Title 46, Section 11108, United States Code; or ()

g. The compensation is exempt from federal withholding. ()

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872).
 Sections 63-3035 and 63-3036, Idaho Code

01. Payment of State Income Tax Withheld. ()

a. In General. An employer must remit monthly any state income tax withheld. These monthly payments are due on or before the 20th day of the following month. However, employers who owe seven hundred fifty dollars (\$750) or less per calendar quarter may, at the discretion of the Tax Commission, be allowed to remit the tax withheld on or before the last day of the month following the end of the quarter. Employers who owe less than seven hundred fifty dollars (\$750) annually may be allowed to remit the tax withheld annually on or before January 31. When a filing cycle is changed, the change will take effect on January 1 of the following year. ()

b. Semimonthly Filers. ()

i. An employer who withholds state income taxes that meet or exceed the monthly or annual threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subparagraph 872.01.b.ii., of this rule, will remit the tax withheld based on semimonthly withholding periods. The first semimonthly withholding period begins on the first day of the month and ends on the 15th day of the same month with payment made no later than the 20th day of the same month. The second period begins on the 16th day of the month and ends on the last day of the same month with payment made no later than the fifth day of the following month. ()

ii. Threshold amounts:

Withholding Periods Beginning	Monthly Threshold Amounts	Annual Threshold Amounts
On or After July 1, 2005	\$20,000	\$240,000
On or After July 1, 2019	\$25,000	\$300,000

iii. An employer who meets the threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subparagraph 872.01.b.ii. of this rule, but only has one (1) monthly pay period, may request approval by the Tax Commission to pay and report monthly. The request should include verification of monthly payroll. ()

c. Farmer-Employers. Generally an employer who is a farmer will remit state income tax withheld on or before the last day of January. However, an employer who is a farmer will remit the state income tax withheld on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Commerce and Labor. ()

02. Filing of Annual Reconciliation Returns. ()

a. In General. An employer must file an annual reconciliation return for any calendar year in which

the employer had an active Idaho withholding account or withheld Idaho income taxes. Such return will: ()

i. Report payroll paid during the preceding calendar year; and ()

ii. Reconcile the state income tax withheld during the preceding calendar year with the tax remitted for the preceding calendar year. ()

b. Due Date of Reconciliation Returns. The annual reconciliation return must be filed with the Forms W-2 on or before such date as required for filing of the W-2. See Rule 874 of these rules. The Tax Commission may require a shorter filing period and due date. ()

c. Zero Tax Returns. For reporting periods in which the employer had no payroll or withheld no tax, the annual reconciliation return must be completed and filed by the due date. ()

03. Extension of Time to Pay or File Returns. The Tax Commission may allow a one (1) month extension of time to make a monthly or quarterly payment or to file the annual reconciliation return. ()

a. The employer must file a written request by the due date of the payment or annual reconciliation return that identifies the reason for the extension and includes the required minimum payment. The minimum payment must be at least ninety percent (90%) of the tax withheld for the period or one hundred percent (100%) of the tax withheld for the same period of the prior year. ()

b. The employer must file the annual reconciliation return within one (1) month of the due date. The tax paid with the extension request must be shown on the payment line of the return. Interest from the due date applies to any additional tax due. ()

04. Valid Returns. All withholding returns and other documents required to be filed pursuant to Sections 63-3035 and 63-3036, Idaho Code, and this rule will be filed using the proper forms as prescribed by the Tax Commission. The forms will include the taxpayer's name, signature, withholding account number, and federal employer identification number. Returns that fail to meet these requirements are invalid and may be returned to the taxpayer to be refiled. Failure to file a valid return by the due date may cause interest and penalties to be imposed. ()

873. EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATES (RULE 873).
Section 63-3035, Idaho Code

01. Verification. The Tax Commission may request verification of the marital status or withholding allowances claimed by an employee on federal Form W-4. If the employee fails to verify the claimed marital status or withholding allowances, a Notice of Deficiency as provided by Section 63-3045, Idaho Code, may be issued. If a Notice of Deficiency is issued but is not protested or is upheld on appeal, the Tax Commission will issue an order specifying the marital status and maximum number of withholding allowances the employee is allowed for Idaho withholding purposes. ()

02. Notification. The Tax Commission is to notify the employer of the order. The order is effective immediately on receipt by the employer and is to remain in effect the rest of the calendar year, unless the employee files federal Form W-4 claiming fewer allowances than ordered. The employer is liable to the Tax Commission for any deficiencies that result from withholding in excess of the maximum number of withholding allowances specified in the most recent Tax Commission order. ()

03. Petition for Changes. An employee subject to a Tax Commission order may petition the Tax Commission for a change to the order. If the employee establishes that a material change of circumstances has occurred, the Tax Commission will issue a new order and notify the employer. The determination of the Tax Commission on any change to the order is final. ()

874. EMPLOYEE'S WAGE AND TAX STATEMENTS (RULE 874).
Sections 63-3035 and 63-3036, Idaho Code

01. Form and Information Required. Federal Form W-2 (W-2) or a form of similar size and design may be used. In addition to the information required by the Internal Revenue Code, total Idaho wages paid, Idaho income tax withheld, Idaho withholding permit number, and the name of the state must be shown in the appropriate boxes. Incomplete, incorrect or altered forms are not acceptable and may be returned to the employer for correction. ()

02. Furnishing Forms W-2 to Employees. The employer must furnish each employee a W-2 before February 1, or at the request of the employee within thirty (30) days after termination of his employment. ()

03. Filing Forms W-2 With the Tax Commission. On or before the last day of January, each employer must file with the Tax Commission a state copy of the W-2 for each employee to whom Idaho taxable wages were paid, regardless of whether Idaho income tax was withheld. If the employer had no employees and subsequently did not pay wages or withhold tax, no W-2s are required. ()

04. Corrected Forms W-2. If a corrected W-2 is filed with the Internal Revenue Service, the W-2c must be filed with the Tax Commission. ()

05. Employers With Fifty or More Idaho Employees. Each employer with fifty (50) or more Idaho employees who is required to file W-2s electronically by Section 6011, Internal Revenue Code, must file through electronic filing with Idaho. In addition to the information required by the Internal Revenue Code, the electronic filing must also include the employer's Idaho withholding account number, Idaho wages, and Idaho withholding. Employers who are required to file electronically but fail to do so are subject to the provisions of Section 63-3046(e)(1), Idaho Code, and treated as if no W-2s were filed. ()

06. Services Performed Within and Without Idaho. If services are performed within and without Idaho, the state wages shown on the W-2 furnished to the employee must include the portion of the employee's total wages reasonably attributed to services performed within Idaho as determined using the calculations in Rule 270 of these rules. ()

07. Extension of Time to File Form W-2. The Tax Commission may allow a one (1) month extension of time to file the W-2s. ()

a. The employer must file a written request by the due date of the W-2s that identifies the reason for the extension. ()

b. The employer must file the W-2s within one (1) month of the due date. A penalty of two dollars (\$2) per W-2 per month not filed may be applied if the W-2s are not submitted by the due date. ()

875. -- 876. (RESERVED)

877. BACKUP WITHHOLDING BY PASS-THROUGH ENTITIES (RULE 877).
Sections 63-3022L and 63-3036B, Idaho Code

01. In General. A pass-through entity that is transacting business in Idaho or an estate or trust that has income taxable in Idaho must withhold Idaho income tax from the owner's or beneficiary's share of income and guaranteed payments from the pass-through entity that is required to be included in the individual's Idaho taxable income unless exempt from backup withholding by Section 63-3036B, Idaho Code, or this rule. For purposes of this rule, pass-through entity means "pass-through entity" as defined in Section 63-3006C, Idaho Code. The provisions of this rule do not affect the withholding requirements set forth in Sections 63-3035, 63-3035A, or 63-3036, Idaho Code, and related rules. ()

02. Exceptions to Backup Withholding. Backup withholding by a pass-through entity is not required on the income of the following pass-through owners and beneficiaries: ()

a. Owners and beneficiaries who are not natural persons, including corporations, partnerships, trusts, and estates. ()

b. Unit holders of a publicly traded partnership as defined by Section 7404(b), Internal Revenue Code, if the publicly traded partnership: ()

i. Is treated as a partnership for purposes of the Internal Revenue Code; and ()

ii. Has agreed to file an annual information return. The information return must be in the form of a schedule included with the partnership's Idaho Partnership Return of Income reporting the name, address, taxpayer identification number, and other information requested by the Tax Commission of each unit holder with a distributive share of partnership income in Idaho in excess of five hundred dollars (\$500) for the taxable year. ()

c. Resident individuals and part-year resident individuals who have income other than from a pass-through entity. ()

d. Nonresident individuals if: ()

i. The pass-through entity has reported and paid the tax relating to the individual on a composite return pursuant to Section 63-3022L, Idaho Code. ()

ii. Such individual's share of income and guaranteed payments of the pass-through entity from Idaho sources is less than one thousand dollars (\$1,000) for the taxable year in which the income is subject to tax; ()

iii. The income is subject to withholding under Section 63-3035 or 63-3036, Idaho Code; or ()

iv. The individual has signed and the pass-through entity has approved an Idaho nonresident owner agreement. ()

03. Idaho Nonresident Owner Agreement. When an individual signs an Idaho nonresident owner agreement, he agrees to file and pay tax on his share of Idaho income from a pass-through entity. The signed agreement must be the proper form prescribed by the Tax Commission and must be submitted to the pass-through entity each year. The pass-through entity must sign and approve the nonresident owner agreement for it to be valid. Their approval will signify their acknowledgment that they are liable for any tax due at the corporate rate if the individual fails to file a return as agreed. If the pass-through entity does not approve the nonresident owner agreement, the pass-through entity must withhold or include the individual in the composite return. The pass-through entity must retain the forms for three years following the end of the taxable year for which it is to apply. ()

04. Payment of Backup Withholding. ()

a. The pass-through entity must withhold amounts from the pass-through income of nonresident individuals at the highest marginal rate applicable for the taxable year under Section 63-3024, Idaho Code. The amount withheld for a taxable year must be remitted to the Tax Commission annually on or before the fifteen day of the fourth month following the end of the taxable year, unless one of the exceptions under Subsection 877.02 of this rule apply to the owner or beneficiary. The amount withheld must be remitted on the appropriate return as required by the Tax Commission. ()

b. Amounts remitted as backup withholding for a taxable year in accordance with the provisions of this rule will be considered to be in part payment of the tax imposed on such owner or beneficiary for his taxable year in which the pass-through entity's taxable year ends. ()

05. Backup Withholding Returns. A reconciliation schedule must be included with the pass-through entity's Idaho income tax return. Returns submitted to the Tax Commission reporting amounts withheld as required by Section 63-3036B, Idaho Code, must include the following information: ()

a. The amount of income described in Section 63-3022L(2), Idaho Code, by owner or beneficiary; ()

b. The amount of tax withheld; ()

- c. Name, address, filing option, and social security number of each owner or beneficiary; ()
- d. The pass-through entity's name, and federal employer identification number. ()

06. Failure to File Returns or Remit Backup Withholding. Returns that fail to meet the requirements of this rule are invalid and may be returned to the pass-through entity to be refiled. Failure to file a valid return or remit the proper amount of backup withholding by the due date may cause interest and penalties to be imposed. ()

878. -- 879. (RESERVED)

880. CREDITS AND REFUNDS (RULE 880).

Section 63-3072, Idaho Code

- 01. Overpayment.** The term overpayment includes: ()
 - a. A voluntary and unrequested payment greater than an actual tax liability. ()
 - b. An excessive amount that an employer withholds pursuant to Sections 63-3035 and 63-3036, Idaho Code. ()
 - c. An excessive amount that a pass-through entity withholds pursuant to Section 63-3036B, Idaho Code. ()
 - d. All amounts erroneously or illegally assessed or collected. ()
 - e. The term overpayment does not include an amount paid pursuant to a final determination of tax, including a compromise and closing agreement, decision of the Tax Commission, decision of the Board of Tax Appeals, or final court judgment. ()

02. Requirements of a Valid Refund Claim. Before the Tax Commission can credit or refund an overpayment, the taxpayer making the claim must establish both of the following: ()

- a. The basis for the credit or refund claim, and ()
- b. The amount of the overpayment. ()

03. Timely Claim Required for Refund. ()

a. The Tax Commission may not credit or refund an overpayment after the expiration of the period of limitations unless the taxpayer filed a claim before the expiration of the period. ()

b. When an adjustment to the taxpayer's federal return affects the calculation or application of an Idaho net operating loss, capital loss, or Idaho credit in a year otherwise closed by the period of limitations, the taxpayer has one (1) year from the date of the final determination to file a claim for refund. ()

c. If a claim for credit or refund relates to an overpayment attributable to an Idaho net operating loss carryback incurred in taxable years beginning on and after January 1, 2013, an amended return carrying the loss back must be filed within one (1) year of the end of the taxable year of the net operating loss that results in such carryback. ()

04. Amended Returns Required as Refund Claims. The claim for a credit or refund must be made on an amended Idaho income tax return that is properly signed and includes an explanation of each legal or factual basis in sufficient detail to inform the Tax Commission of the reason for the claim. By signing the amended return the taxpayer is declaring that the claim for refund is true and correct to the best of his knowledge and belief and is made under the penalties of perjury. ()

05. Closed Issues. The Tax Commission will deny a credit or refund claim for a taxable year for which the Tax Commission has issued a Notice of Deficiency, unless the taxpayer shows that the changes on the amended return are unrelated to the adjustments in the Notice of Deficiency or that the changes result from a final federal determination. ()

06. Limitations on Refunds of Withholding and Estimated Payments. As provided by Section 63-3072(c), Idaho Code, the Tax Commission may not refund taxes withheld from wages unless the taxpayer files a return within three (3) years after the due date. The Tax Commission may not refund any payment received with an extension of time to file or with a tentative return, including quarterly estimated payments, unless the taxpayer makes a claim for a refund within three (3) years of the due date of the return. However, when an individual is in a combat zone and entitled to an extension of time by Section 7508, Internal Revenue Code, the number of days disregarded under such section will be added to the three (3) year period for allowing refunds of amounts withheld or paid as estimated payments. ()

07. Reduction or Denial of Refund Claims. If the Tax Commission determines that a refund claim is in error, the Tax Commission will deny the claim in whole or part. Unless the denial results from a mathematical error by the claimant, the Tax Commission will give notice of the denial by a Notice of Deficiency in the manner required by Section 63-3045, Idaho Code, and related rules. The protest and appeal process that applies to a Notice of Deficiency also applies to the denial or reduction of a refund. See Section 63-3045A, Idaho Code, for information on mathematical errors. ()

08. Amended Federal Return. Filing a claim with the Internal Revenue Service to reduce taxable income does not extend the Idaho period of limitations for claiming a refund or credit of tax. If the statute of limitations is about to expire on a taxpayer's Idaho return for which an issue is pending on his federal return or return filed with another state, the taxpayer should amend his Idaho return. He should clearly identify the amended return as a protective claim for refund. The taxpayer must notify the Tax Commission of the final resolution. ()

09. Combined Reports -- Final Federal Determination and Change of Filing Method. If the Idaho period of limitations is open due to a final federal determination, a corporate taxpayer may not adjust its Idaho return to include a previously omitted corporation or to exclude any corporation previously included in a combined report. ()

10. Duplicate Returns. If a return is filed pursuant to Section 63-217(1)(b), Idaho Code, where the taxpayer establishes by competent evidence that the return was deposited in the United States mail or with a qualifying private delivery service (See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010) on or before the date for filing and the Tax Commission has notified the taxpayer that it has not received the return, the taxpayer must submit a duplicate return within fifteen (15) days of such notification for the newly filed return to qualify as a duplicate return. The period of limitations for a duplicate return is the later of one (1) year from the filing of the duplicate return or the date provided for in Section 63-3072(b), Idaho Code. ()

881. -- 884. (RESERVED)

885. INTEREST ON REFUNDS (RULE 885).

Sections 63-3073 and 63-3045, Idaho Code

01. Computation. Except as provided in Subsection 885.03, the Tax Commission is to compute interest on a net refund as follows: ()

a. Refunds of income tax withheld. The Tax Commission will pay interest on refunds of withholding if the refund is paid more than sixty (60) days after the due date of the income tax return or the date it was filed, whichever is later. For purposes of this rule, the refund is considered paid on the date it is postmarked. If a taxpayer unduly delays the processing of his refund by failing to respond promptly to requests for information or in any other way, the Tax Commission may deduct time attributable to the delay from the total processing time to determine whether interest is to be paid and from what date. Unless reasonable cause is established, undue delay occurs if the taxpayer's delay is more than sixty (60) days. Pursuant to this subsection, interest is computed from the due date, or extended due date, of the return. ()

b. Tentative payments. The Tax Commission may not pay interest on a refund resulting from an estimated or tentative payment. ()

02. Refunds from Net Operating Loss and Capital Loss Carrybacks. Refunds from net operating loss and capital loss carrybacks include refunds from credits carried to years other than the year to which the net operating loss or capital loss deduction applies. Interest on these refunds is computed from the last day of the loss year. ()

886. -- 889. (RESERVED)

890. NOTICE OF ADJUSTMENT OF FEDERAL TAX LIABILITY (RULE 890).
Section 63-3069, Idaho Code

01. Written Notice. ()

a. Written notice will include copies of all Revenue Agents' reports, and any other documents and schedules required to clarify the adjustments to taxable income. If the final determination results in a refund of state taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. ()

b. Written notice included with an income tax return for a year or years other than the year subject to the federal adjustment does not constitute the required notification. ()

891. NOTICE OF ADJUSTMENT OF STATE OR TERRITORY TAX LIABILITY (RULE 891).
Sections 63-3069 and 63-3069A, Idaho Code

01. Final Determination. The term final determination of any deficiency or refund of income tax due to another state or territory as used in Section 63-3069, Idaho Code, means the final resolution of all issues that were adjusted by the other state or territory. ()

02. Written Notice. ()

a. Written notice is to include copies of all reports issued by the other state or territory, and any other documents and schedules required to clarify the adjustments to taxable income of the state or territory. If the final determination results in a refund of Idaho taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. ()

b. Written notice included with an income tax return for a year or years other than the year subject to the adjustment by the state or territory does not constitute the required notification. ()

892. -- 894. (RESERVED)

895. PERIOD OF LIMITATION ON ASSESSMENT AND COLLECTION OF TAX (RULE 895).
Sections 63-3068 and 63-3069A, Idaho Code

01. Federal Determination. The additional one (1) year period of limitation provided in Sections 63-3068(f) and 63-3068(j), Idaho Code, does not begin to run if the final federal determination is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's representative. The Internal Revenue Service and other taxing agencies are not representatives of taxpayers. ()

02. State or Territory Determination. The additional one (1) year period of limitation provided in Section 63-3069A(2)(b), Idaho Code, does not begin to run if the final determination of income tax due to another state or territory is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's representative. Taxing agencies of other states or territories are not representatives of taxpayers. ()

03. Protest of a Notice of Deficiency. If a taxpayer protests a Notice of Deficiency, the expiration of the period of limitations provided in Section 63-3068, Idaho Code, is suspended. ()

04. Waiver of the Period of Limitation. If a taxpayer executes a waiver to extend the period of limitation, the waiver will state the taxpayer's name as shown on the tax return. If a group return is filed, the waiver applies to each corporation included in the combined group. ()

05. Duplicate Returns. If a return is filed pursuant to Section 63-217(1)(b), Idaho Code, where the taxpayer establishes by competent evidence that the return was deposited in the United States mail or with a qualifying private delivery service (See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010) on or before the date for filing and the Tax Commission has notified the taxpayer that it has not received the return, the taxpayer is to submit a duplicate return within fifteen (15) days of such notification for the newly filed return to qualify as a duplicate return. The period of limitations for a duplicate return is the later of one (1) year from the filing of the duplicate return or the date provided for in Section 63-3068, Idaho Code. ()

896. REQUEST FOR PROMPT ACTION BY THE TAX COMMISSION (RULE 896).
Section 63-3068(e), Idaho Code

01. Requirements of a Valid Request for Prompt Action. The personal representative, executor, administrator, or other fiduciary representing the estate of a decedent is to file the request for prompt action in writing with the Tax Commission. The request must meet the following qualifications: ()

- a.** It must be filed after the applicable return has been filed; ()
- b.** It must be filed separately from any other document; ()
- c.** It must identify the taxpayer by name and identification number and the taxable periods for which the prompt action is requested; and ()
- d.** It must clearly state that it is a request for prompt action pursuant to Section 63-3068(e), Idaho Code. ()

02. Applicable Returns. A request for prompt action does not apply to any return filed after the request has been filed. The request applies only to returns reflecting income earned or other activities and transactions occurring during the lifetime of the decedent or by his estate during the period of administration. ()

897. -- 899. (RESERVED)

900. RESPONSIBILITY FOR PAYMENT OF CORPORATE TAXES AND PENALTIES (RULE 900).
Section 63-3078, Idaho Code. The Tax Commission or its delegate may issue a jeopardy assessment or take any other action necessary to assess and collect the amounts due from liable individuals. The action may include the filing of a lien on the property of the individual found liable, or seizure and sale of his property or any other means of collection. The liable individuals are to have the remedies provided in Sections 63-3045, 63-3049, 63-3065, and 63-3074, Idaho Code. ()

901. -- 939. (RESERVED)

940. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION – DEFINITIONS (RULE 940).

Title 63, Chapter 44, Idaho Code. For purposes of administering the Idaho Small Employer Incentive Act of 2005, as modified by 2006 legislation, and Rules 940 through 944 of these rules, the following definitions apply: ()

01. Buildings and Structural Components. Buildings and structural components means buildings and structural components of buildings as defined in Federal Treasury Regulation Section 1.48-1 for Internal Revenue Code Section 48 repealed by Public Law 101-508. ()

02. New Plant and Building Facilities. New plant and building facilities are facilities where employees are physically employed. ()

03. Investment in New Plant. Investment in new plant means new plant and building facilities:()

- a. That are constructed or erected by the taxpayer, or ()
- b. That are acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition does not qualify as new plant. ()
- c. That qualify for the investment tax credit under Section 63-3029B, Idaho Code, or is a building or structural components of buildings. ()
- 04. Making Capital Investments.** The date capital investments are considered made will be determined in the same manner as the date assets are considered placed in service pursuant to the federal treasury regulations. ()
- 05. New Employee.** A new employee cannot be created by reorganizing the business in such a manner that the employee is reassigned to working in the project site instead of outside the project site. An employee within Idaho transferred to a qualifying position within the project site may qualify as a new employee if his previous position is filled by another employee creating a net new job in Idaho. An employee working outside of Idaho and transferred to a qualifying position within the project site may also qualify as a new employee. ()
- 06. Project Period.** The project period is a period of time that begins and ends as follows: ()
 - a. The project period may begin on one (1) of the following dates, but not prior to January 1, 2006: ()
 - i. The date of a physical change to the project site; or ()
 - ii. The date new employees begin providing personal services at the project site. ()
 - b. The project period ends at the earliest of: ()
 - i. The conclusion of the project, ()
 - ii. Ten (10) years after the beginning of the project; or ()
 - iii. December 31, 2030. ()
- 07. Project Site.** The project site may include one (1) location or more than one (1) location in Idaho. However, if more than one (1) location in Idaho is used, eighty percent (80%) or more of the investment required in the tax incentive criteria is to be located at one (1) contiguous site. ()
- 08. Small Employer Investment Tax Credit.** Small employer investment tax credit means the additional income tax credit allowed by Section 63-4403, Idaho Code. ()
- 09. Small Employer New Jobs Tax Credit.** Small employer new jobs tax credit means the additional income tax credit for new jobs allowed by Section 63-4405, Idaho Code. ()
- 10. Small Employer Real Property Improvement Tax Credit.** Small employer real property improvement tax credit means the real property improvement tax credit allowed by Section 63-4404, Idaho Code. ()
- 11. Small Employer Tax Incentive Criteria.** Small employer tax incentive criteria means the tax incentive criteria defined in Section 63-4402(2)(j), Idaho Code. See Rule 942 of these rules for more information. ()
- 12. Small Employer Tax Incentives.** Small employer tax incentives means the tax incentives allowed

by Title 63, Chapter 44, Idaho Code. ()

941. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: IN GENERAL (RULE 941).

Sections 63-4401 and 63-4406, Idaho Code

01. Pass-Through Entities. The income tax credits may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credits, for pass-through entities paying tax, and the application of limitations on pass-through credits. ()

02. Reorganizations, Mergers and Liquidations. The small employer investment tax credit and real property improvement tax credits are subject to recapture in accordance with Section 47, Internal Revenue Code, as in effect prior to the enactment of Public Law 101-508. Exceptions included in Section 47(b), Internal Revenue Code, to the general recapture rules, including a mere change in the form of conducting the trade or business and transactions to which Section 381(a), Internal Revenue Code, applies will not cause recapture to occur so long as the property is retained in such trade or business as qualified investment in new plant and the taxpayer retains a substantial interest in such trade or business. To the extent that provisions of the Internal Revenue Code allow an acquiring taxpayer to succeed to and take into account unused investment credits of the distributor or transferor taxpayer, such provisions apply to the acquiring taxpayer with regard to any unused Idaho small employer investment tax credits and real property improvement tax credits. See Rule 946 of these rules for information related to the recapture required by an acquiring taxpayer. ()

03. Relocations. The relocation from one (1) project site to a new project site within the state may not create new eligibility for the current or any succeeding business entity. ()

04. Unitary Taxpayers. A corporation included as a member of a unitary group may elect to share the small employer investment tax credit, real property improvement tax credit, and new jobs tax credit it earns with other members of the unitary group. Before the corporation may share the credit, it must claim the credit to the extent allowable against its tax liability. The credit available to be shared is the amount of each credit carryover and credit earned for the taxable year that exceeds the limitations provided for each credit. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward. ()

942. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER TAX INCENTIVE CRITERIA (RULE 942).

Section 63-4402, Idaho Code

01. In General. The small employer tax incentive criteria are the minimum requirements a taxpayer must meet in order to be eligible for small employer tax incentives. To meet the small employer tax incentive criteria, a taxpayer must satisfy the following requirements at the project site, during the project period: ()

a. Making capital investment in new plant and building facilities totaling five hundred thousand dollars (\$500,000) or more; ()

b. Increasing employment by at least ten (10) new employees who meet the requirements of Section 63-4402(2)(j)(ii)(1), Idaho Code; ()

c. Employment increases more than the ten (10) new employees described in Paragraph 942.01.b. of this rule will meet the requirements of Section 63-4402(2)(j)(ii)(2), Idaho Code; and ()

d. Once the increase in employment has been reached, maintaining that increased employment in Idaho for the remainder of the project period. ()

02. Certification. A taxpayer is to certify that he has met, or will meet, the small employer tax incentive criteria before he can claim any of the small employer tax incentives. Certification is accomplished by filing the applicable form as prescribed by the Tax Commission. The certification form includes the following information

- and be filed with the Tax Commission prior to claiming any of the small employer tax incentives: ()
- a. A description of the qualifying project; ()
 - b. The estimated or actual start date of the project; ()
 - c. The estimated or actual end date of the project; ()
 - d. The location of the project site or sites; ()
 - e. The estimated or actual number of new jobs created during the project period; and ()
 - f. The estimated or actual cost of capital investment in new plant and building facilities for each year in the project period. ()

03. Copy of Certification Form Required. A copy of the certification form will be attached to the Idaho income tax return for each taxable year that a small employer income tax incentive is claimed or carried over. ()

943. (RESERVED)

944. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION – SMALL EMPLOYER REAL PROPERTY IMPROVEMENT TAX CREDIT (RULE 944). Sections 63-4404 and 63-4406, Idaho Code

01. Buildings and Structural Components of Buildings. ()

a. To qualify for the small employer real property improvement tax credit, buildings and structural components of buildings must meet the following requirements: ()

i. The buildings and structural components of buildings must be new as defined in Subsection 940.03 of these rules. Structural components placed in service as part of a renovation of an existing building do not qualify. ()

ii. The buildings and structural components of buildings must be placed in service at the project site. ()

b. Buildings and structural components of buildings that meet the definition of qualified investments pursuant to Section 63-3029B, Idaho Code, will not qualify for the small employer real property improvement tax credit. ()

945. -- 999. (RESERVED)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-2202 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-105, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the State Tax Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01: Zero-Based Regulation.

This docket was created by extracting Sections 300-699 that were originally negotiated under companion docket 35-0101-2201 published in this bulletin and are part of the agency's ZBR chapter rewrite. This was determined to be in the interest of the public and done under the direction of the Executive Office of the Governor. These sections were affected by 2022 HB563, which changed the way business income is apportioned from a three-factor method to a single-sales factor method. It also changed the way Idaho taxes multistate income from using a cost-of-performance method to market-based sourcing.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under docket number 35-0101-2201. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, page 47](#). The Tax Commission has held three public meetings, and all public comments received will be considered in the formulation and adoption of the pending rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian at (208) 334-6691.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2022.

DATED this October 5th, 2022.

Cynthia Adrian, Income Tax Specialist
Idaho State Tax Commission, Governmental Affairs
11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36, Boise ID 83722-0036
cynthia.adrian@tax.idaho.gov
(208) 334-6691

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0101-2202
(Zero Based Regulation (ZBR) Chapter Rewrite, Sections 300 through 699)

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

(BREAK IN CONTINUITY OF SECTIONS)

[The following Sections 300-699 were originally negotiated under companion docket 35-0101-2201 and are part of the agency's ZBR chapter rewrite]

300. TAX ON CORPORATIONS (RULE 300).
Sections 63-3025 and 63-3025A, Idaho Code

01. Excise Tax. A corporation excluded from the tax on corporate income imposed by Section 63-3025, Idaho Code, is subject to the excise tax imposed by Section 63-3025A, Idaho Code. If a corporation is subject to the excise tax imposed by Section 63-3025A, Idaho Code, it is not subject to the tax on corporate income imposed by Section 63-3025, Idaho Code. ()

02. Minimum Tax. A name-holder or inactive corporation that is authorized to do business in Idaho pays the minimum tax of twenty dollars (\$20) even though the corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. ()

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. A corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. ()

04. Protection Under Public Law 86-272. A corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. ()

05. Corporate Income Tax Rates. Corporate tax rates are listed at <https://tax.idaho.gov/busit>. ()

301. -- 309. (RESERVED)

310. APPORTIONMENT ELECTIONS FOR MULTISTATE CORPORATIONS (RULE 310).
Section 63-3027, Idaho Code

01. Available Options. A multistate corporation transacting business in Idaho may elect to be taxed pursuant to the provisions of the Idaho Income Tax Act or pursuant to the Multistate Tax Compact, Section 63-3701, Idaho Code. This provides three (3) options: ()

a. Apportionment and allocation pursuant to Section 63-3027, Idaho Code. ()

b. Apportionment and allocation pursuant to Article III, Section 1 of the Multistate Tax Compact. However, if this option is elected, in any case in which the provisions of Article III, Section 1 of the Multistate Tax Compact are inconsistent with the provisions of Section 63-3027, Idaho Code, the provisions of Section 63-3027, Idaho Code, shall control. Because of Subsection 63-3027(3), Idaho Code, this option is indistinguishable from the standard apportionment option identified above in Subsection 01.a. of this rule. ()

c. Tax based on one percent (1%) of sales pursuant to Article III, Section 2 of the Multistate Tax Compact and Section 63-3702, Idaho Code. This option is available to corporations whose only activity in Idaho consists of sales that are not in excess of one hundred thousand dollars (\$100,000) during the taxable year. ()

02. Three Factor Apportionment Election for Certain Taxpayers. The default apportionment factor for taxpayers under Section 63-3027, Idaho Code, is sales factor only. However, multistate taxpayers subject to section 63-3027(23), Idaho Code, are an exception to the default provision of apportioning income and are subject separate accounting where required. Pursuant to section 63-3027(10)(b), Idaho Code, an electrical corporation, a telephone corporation, a communications company, or a taxpayer subject to a special industry regulation pursuant to Rule 580 may elect to apportion all apportionable income of the taxpayer to Idaho by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3). ()

03. Electing an Option. A multistate corporation is to file pursuant to Section 63-3027, Idaho Code, unless it elects to report and pay income tax pursuant to one of the options specified in Subsections 310.01.b., 310.01.c., or 310.02. The election must be made on the return by checking the applicable box if provided, otherwise, by attaching a written statement of the election to the return. After the election has been made, the election may not be changed for a taxable year thereafter without permission of the Tax Commission. A petition to change the election must include an explanation of the legal or factual basis for requesting the change and a computation of the taxpayer's Idaho taxable income and tax liability computed using both the prior reporting method and the method the taxpayer is petitioning to use for the year of change. The written petition requesting the change of apportionment method must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the tax return. ()

04. Election for Members of a Combined Group. The elections identified in this Rule apply at the entity level, not to the entire combined group. For example, if an entity in a combined group is one of the types of corporations allowed to make the three (3) factor election, and chooses to do so, but the other entities in the group are not the types of corporations allowed to make the three factor election, these other entities will still use single sales factor. If mixing entities using different apportionment methods within a combined group produces apportionment results that do not fairly represent the business activity in Idaho of any of the taxpayers, then, pursuant to Section 63-3027(17), Idaho Code, the taxpayer may petition for or the Tax Commission may require, a reasonable alternative apportionment. A written statement must be attached to the combined return specifying which entities have or are electing to use three factor apportionment. ()

311. -- 319. (RESERVED)

320. APPLICATION OF MULTISTATE RULES (RULE 320).
Section 63-3027, Idaho Code

01. Prologue. Rules 320 through 699 of these rules are intended to set forth the application of the apportionment and allocation provisions of Section 63-3027, Idaho Code. The only exceptions to these allocation and apportionment rules are those set forth in these rules pursuant to the authority of Sections 63-3027(18) and 63-3027(23), Idaho Code. ()

02. Taxpayers Conducting Business Within and Without Idaho. Section 63-3027, Idaho Code, and related rules apply to corporations conducting business within and without Idaho, and to other taxpayers if required

by other provisions of the Idaho Code or of these rules. However, only C corporations may use the combined report to determine Idaho taxable income. See Rule 360 of these rules. ()

321. -- 324. (RESERVED)

325. DEFINITIONS FOR PURPOSES OF MULTISTATE RULES (RULE 325).

Section 63-3027, Idaho Code. For purposes of computing the Idaho taxable income of a multistate corporation, the following definitions apply: ()

01. Affiliated Corporation and Affiliated Group. An affiliated corporation is a corporation that is a member of a commonly controlled group of which the taxpayer is also a member. The commonly controlled group is referred to as an affiliated group. Although Idaho generally follows federal tax principles and terminology, Idaho's use of the terms affiliated corporation and affiliated group means a corporation or corporations with over fifty percent (50%) of its voting stock directly or indirectly owned or controlled by a common owner or owners. For information on what constitutes common control, see Rule 344 of these rules. ()

02. Allocation. Allocation refers to the assignment of nonapportionable income to a particular state. ()

03. Apportionment. Apportionment refers to the division of apportionable income between states in which the business is conducted by the use of a formula containing apportionment factors. ()

04. Business Activity. Business activity refers to the transactions and activity occurring in the regular course of a particular trade or business of a taxpayer or to the acquisition, management, and disposition of property that constitute integral parts of the taxpayer's regular trade or business operations. ()

05. Combined Group. Combined group means the group of corporations that comprise a unitary business and are includable in a combined report pursuant to Section 63-3027(22) or 63-3027B, Idaho Code, if the water's edge election is made. ()

06. Combined Report. Combined report refers to the computational filing method to be used by a unitary business which is conducted by a group of corporations wherever incorporated rather than a single corporation. ()

07. Gross Receipts. ()

a. Gross receipts are the gross amounts realized, (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest and dividends) in a transaction that produces apportionable income, in which the income or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code. Amounts realized on the sale or exchange of property are not reduced for the cost of goods sold or the basis of property sold. Gross receipts, even if apportionable income, do not include such items as, for example: ()

i. Repayment, maturity, or redemption of the principal of a loan, bond, or mutual fund or certificate of deposit or similar marketable instrument; ()

ii. The principal amount received under a repurchase agreement or other transaction properly characterized as a loan; ()

iii. Proceeds from issuance of the taxpayer's own stock or from sale of treasury stock; ()

iv. Damages and other amounts received as the result of litigation; ()

v. Property acquired by an agent on behalf of another; ()

vi. Tax refunds and other tax benefit recoveries; ()

- vii. Pension reversions; ()
- viii. Contributions to capital; ()
- ix. Income from forgiveness of indebtedness; or ()
- x. Amounts realized from exchanges of inventory that are not recognized by the Internal Revenue Code. ()

b. Exclusion of an item from the definition of gross receipts is not determinative of its character as apportionable or nonapportionable income. Nothing in this definition is to be construed to modify, impair or supersede any provision of Rules 560 through 595 of these rules. ()

08. Group Return. A unitary group of corporations may file one (1) Idaho corporate income tax return for all the corporations of the unitary group that are required to file an Idaho income tax return. When used in these rules, group return refers to this sole return filed by a unitary group. Use of the group return precludes the need for each corporation to file its own Idaho corporate income tax return. ()

09. MTC. The Multistate Tax Commission. ()

10. Multistate Corporation. A multistate corporation is a corporation that operates in more than one (1) state. For purposes of this definition, state is defined in Section 63-3027(1)(j), Idaho Code. ()

11. Unitary Business. Unitary business is a concept of constitutional law defined in decisions of the United States Supreme Court. See Rule 340 of these rules. ()

326. -- 329. (RESERVED)

330. APPORTIONABLE AND NONAPPORTIONABLE INCOME DEFINED: APPORTIONMENT AND ALLOCATION (RULE 330).

Section 63-3027(1), Idaho Code. Sections 63-3027(1)(a) and 63-3027(1)(h), Idaho Code, require that every item of income be classified either as apportionable income or nonapportionable income. Income for purposes of classification as apportionable or nonapportionable includes gains and losses. Apportionable income is apportioned among jurisdictions by use of a formula. Nonapportionable income is specifically assigned or allocated to one (1) or more specific jurisdictions pursuant to express rules. An item of income is classified as apportionable income if it falls within the definition of apportionable income. An item of income is nonapportionable income only if it does not meet the definitional requirements for being classified as apportionable income. ()

331. APPORTIONABLE AND NONAPPORTIONABLE INCOME DEFINED: APPORTIONABLE INCOME (RULE 331).

Section 63-3027(a)(1), Idaho Code

01. In General. Apportionable income means income of any type or class and from any activity that meets the “transactional test” described in Rule 332 of these rules, or the “functional test” described in Rule 333 of these rules. The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, and nonoperating income, is of no aid in determining whether income is apportionable or nonapportionable income. ()

02. Terms Used in Definition of Apportionable Income and in Application of Definition. As used in the definition of apportionable income and in the application of the definition. ()

a. “Trade or business” means the unitary business of the taxpayer, part of which is conducted within Idaho. ()

b. “To contribute materially” includes, without limitation, “to be used operationally in the taxpayer’s

trade or business.” Whether property materially contributes is not determined by reference to the property’s value or percentage of use. If an item of property materially contributes to the taxpayer’s trade or business, the attributes, rights or components of that property are also operationally used in that business. However, property that is held for mere financial betterment is not operationally used in the taxpayer’s trade or business. ()

332. APPORTIONABLE AND NONAPPORTIONABLE INCOME DEFINED: TRANSACTIONAL TEST (RULE 332).

Section 63-3027(1)(a), Idaho Code

01. In General. Apportionable income includes income arising from transactions and activity in the regular course of the taxpayer’s trade or business. ()

02. Apportionable Income for Idaho. If the transaction or activity is in the regular course of the taxpayer’s trade or business, part of which trade or business is conducted within Idaho, the resulting income of the transaction or activity is apportionable income for Idaho. Income may be apportionable income even though the actual transaction or activity that gives rise to the income does not occur in Idaho. ()

03. Regular Course of the Taxpayer’s Trade or Business. For a transaction or activity to be in the regular course of the taxpayer’s trade or business, the transaction or activity need not be one that frequently occurs in the trade or business. Most, but not all, frequently occurring transactions or activities will be in the regular course of that trade or business and will, therefore, satisfy the transactional test. It is sufficient to classify a transaction or activity as being in the regular course of a trade or business, if it is reasonable to conclude transactions of that type are customary in the kind of trade or business being conducted or are within the scope of what that kind of trade or business does. However, even if a taxpayer frequently or customarily engages in investment activities, if those activities are for the taxpayer’s mere financial betterment rather than for the operations of the trade or business, such activities do not satisfy the transactional test. The transactional test includes, but is not limited to, income from sales of inventory, property held for sale to customers, and services that are commonly sold by the trade or business. The transactional test also includes, but is not limited to, income from the sale of property used in the production of apportionable income of a kind that is sold or replaced with some regularity, even if replaced less frequently than once a year. ()

333. APPORTIONABLE AND NONAPPORTIONABLE INCOME DEFINED: FUNCTIONAL TEST (RULE 333).

Section 63-3027(1)(a), Idaho Code

01. In General. Apportionable income also includes income from tangible and intangible property, if the acquisition, management or disposition of the property constitutes an integral or necessary part of the taxpayer’s regular trade or business operations. ()

02. Terms. ()

a. “Property” includes any interest in, control over, or use in property (whether the interest is held directly, beneficially, by contract, or otherwise) that materially contributes to the production of apportionable income. ()

b. “Acquisition” refers to the act of obtaining an interest in property. ()

c. “Management” refers to the oversight, direction, or control (directly or by delegation) of the property for the use or benefit of the trade or business. ()

d. “Disposition” refers to the act, or the power, to relinquish or transfer an interest in or control over property to another, in whole or in part. ()

e. “Integral part” refers to property that constituted a part of the composite whole of the trade or business, each part of which gave value to every other part, in a manner that materially contributed to the production of apportionable income. ()

03. Integral, Functional, or Operative Component of Trade or Business. Under the functional test, apportionable income need not be derived from transactions or activities that are in the regular course of the taxpayer's own particular trade or business. It is sufficient, if the property from which the income is derived is or was an integral, functional, or operative component used in the taxpayer's trade or business operations, or otherwise materially contributed to the production of apportionable income of the trade or business, part of which trade or business is or was conducted within Idaho. Depending on the facts and circumstances of each case, property that has been converted to nonapportionable use through the passage of a sufficiently lengthy period of time or that has been removed as an operational asset and is instead held by the taxpayer's trade or business exclusively for investment purposes has lost its character as a business asset and is not subject to the rule of the preceding sentence. Property that was an integral part of the trade or business is not considered converted to investment purposes merely because it is placed for sale. ()

04. Examples of Apportionable Income Under the Functional Test. Income that is derived from isolated sales, leases, assignments, licenses, and other infrequently occurring dispositions, transfers, or transactions involving property, including transactions made in liquidation or the winding-up of business, is apportionable income, if the property is or was used in the taxpayer's trade or business operations. Income from the licensing of an intangible asset, such as a patent, copyright, trademark, service mark, know-how, trade secrets, or the like, that was developed or acquired for use by the taxpayer in its trade or business operations, constitutes apportionable income whether or not the licensing itself constituted the operation of a trade or business, and whether or not the taxpayer remains in the same trade or business from or for which the intangible asset was developed or acquired. ()

05. Operational Function Versus Investment Function. Under the functional test, income from intangible property is apportionable income when the intangible property serves an operational function as opposed to solely an investment function. The relevant inquiry focuses on whether the property is or was held in furtherance of the taxpayer's trade or business, that is, on the objective characteristics of the intangible property's use or acquisition and its relation to the taxpayer and the taxpayer's activities. The functional test is not satisfied where the holding of the property is limited to solely an investment function as is the case where the holding of the property is limited to mere financial betterment of the taxpayer in general. ()

06. Property Held in Furtherance of Trade or Business. If the property is or was held in furtherance of the taxpayer's trade or business beyond mere financial betterment, then income from that property may be apportionable income even though the actual transaction or activity involving the property that gives rise to the income does not occur in Idaho. ()

07. Presumptions. If with respect to an item of property a taxpayer takes a deduction from apportionable income that is apportioned to Idaho or includes the original cost in the property factor, it is presumed that the item or property is or was integral to the taxpayer's trade or business operations. No presumption arises from the absence of any of these actions. ()

08. Application of the Functional Test. Application of the functional test is generally unaffected by the form of the property (for example, tangible or intangible property, real or personal property). Income arising from an intangible interest, for example, corporate stock or other intangible interest in a business or a group of assets, is apportionable income when the intangible itself or the property underlying or associated with the intangible is or was an integral, functional, or operative component to the taxpayer's trade or business operations. Thus, while apportionment of income derived from transactions involving intangible property as apportionable income may be supported by a finding that the issuer of the intangible property and the taxpayer are engaged in the same trade or business, i.e., the same unitary business, establishment of such a relationship is not the exclusive basis for concluding that the income is subject to apportionment. It is sufficient to support the finding of apportionable income if the holding of the intangible interest served an operational rather than an investment function of mere financial betterment. ()

334. APPORTIONABLE AND NONAPPORTIONABLE INCOME DEFINED: RELATIONSHIP OF TRANSACTIONAL AND FUNCTIONAL TESTS TO U.S. CONSTITUTION (RULE 334).

Section 63-3027(1)(a), Idaho Code

The Due Process Clause and the Commerce Clause of the U.S. Constitution restrict states from apportioning income as apportionable income that has no rational relationship with the taxing state. The protection against extraterritorial state taxation afforded by these Clauses is often described as the "unitary business principle." The unitary business

principle requires apportionable income to be derived from the same unitary business that is being conducted at least in part in Idaho. The unitary business that is conducted in Idaho includes both a unitary business that the taxpayer alone may be conducting and a unitary business the taxpayer may conduct with any other person or persons. Satisfaction of either the transactional test or the functional test complies with the unitary business principle, because each test requires that the transaction or activity (in the case of the transactional test) or the property (in the case of the functional test) to be tied to the same trade or business that is being conducted within Idaho. Determination of the scope of the unitary business being conducted in Idaho is without regard to the extent to which Idaho requires or permits combined reporting. ()

335. NONAPPORTIONABLE INCOME (RULE 335).

Section 63-3027(1)(h), Idaho Code

01. Nonapportionable Income. Nonapportionable income is all income other than apportionable income. All deductions relating to the production of nonapportionable income is to be allocated with the income produced. Any allowable deduction that applies to both apportionable and nonapportionable income of the taxpayer is to be prorated to those classes of income to determine income subject to tax. When used in these rules, the term nonapportionable income includes nonapportionable losses unless the context clearly indicates otherwise. ()

02. Offset of Interest Expense Against Nonapportionable Income. Interest on indebtedness incurred or continued to purchase or to carry investment that generates nonapportionable income is offset against the income produced. If the facts do not support such a matching of the interest expense to the nonapportionable income, the portion of the taxpayer's interest expense that is offset against income from nonapportionable investments is to be an amount that bears the same ratio to the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year as the taxpayer's nonapportionable income mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year. Aggregate amount allowable means the taxpayer's total interest expense deducted in determining taxable income as defined in Section 63-3011B, Idaho Code, plus interest expense disallowed under Sections 265 and 291 of the Internal Revenue Code, plus interest expense from a pass-through entity, plus the interest expense of a corporation that, pursuant to Sections 63-3027 and 63-3027B through 63-3027E, Idaho Code, is included in a combined report with the taxpayer for the taxable year. See Rule 115 of these rules for the calculation of total income. ()

03. Allocated to Idaho. Nonapportionable income, net of interest and other related expense offsets, that is attributable to Idaho is allocated to Idaho. ()

04. Allocated to Other States. Nonapportionable income, together with interest and other related expense offsets, is allocated to other states if it is not attributable to Idaho. ()

336. APPOINTIONABLE AND NONAPPORTIONABLE INCOME: APPLICATION OF DEFINITIONS (RULE 336).

Section 63-3027(1)(a), 63-3027(1)(h), Idaho Code

01. In General. The following applies the foregoing principles for purposes of determining whether particular income is apportionable or nonapportionable income. ()

02. Rent From Real and Tangible Personal Property. Rental income from real and tangible property is apportionable income if the property for which the rental income was received is or was used in the taxpayer's trade or business and, therefore, is includable in the property factor under Rule 465 of these rules. ()

03. Gains or Losses from Sales of Assets. Gain or loss from the sale, exchange or other disposition of real property or of tangible or intangible personal property is apportionable income if the property while owned by the taxpayer was used in, or was otherwise included in the property factor of the taxpayer's trade or business. However, if the property was used to produce nonapportionable income, the gain or loss is nonapportionable income. ()

04. Interest Income. Interest income from an intangible is apportionable income if the intangible arises out of or was created in the regular course of the taxpayer's trade or business operations or if the purpose for

acquiring and holding the intangible is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of apportionable income of the trade or business operations. ()

05. Dividends. Dividends from stock are apportionable income if the stock arises out of or was acquired in the regular course of the taxpayer's trade or business operations or where the purpose of acquiring and holding the stock is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of apportionable income of the trade or business operations. ()

06. Patent and Copyright Royalties. Royalties from patents and copyrights are apportionable income if the patent or copyright arises out of or was created in the regular course of the taxpayer's trade or business operations or if the purpose for acquiring and holding the patent or copyright is an integral, functional, operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of apportionable income of the trade or business operations. ()

337. -- 339. (RESERVED)

340. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: UNITARY BUSINESS PRINCIPLE (RULE 340).
Section 63-3027, Idaho Code

01. The Concept of a Unitary Business. ()

a. A unitary business is a single economic enterprise that is made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. This flow of value to a business entity located in Idaho that comes from being part of a unitary business conducted both within and without Idaho is what provides the constitutional due process "definite link and minimum connection" necessary for Idaho to apportion apportionable income of the unitary business, even if that income arises in part from activities conducted outside Idaho. The apportionable income of the unitary business is then apportioned to Idaho using an apportionment percentage provided by Section 63-3027, Idaho Code. ()

b. This sharing or exchange of value may also be described as requiring that the operation of one (1) part of the business be dependent upon, or contribute to, the operation of another part of the business. Phrased in the disjunctive, the foregoing means that if the activities of one (1) business either contribute to the activities of another business or are dependent upon the activities of another business, those businesses are part of a unitary business. ()

02. Constitutional Requirement for a Unitary Business. ()

a. The sharing or exchange of value described in Subsection 340.01 of this rule that defines the scope of a unitary business requires more than the mere flow of funds arising out of a passive investment or from the financial strength contributed by a distinct business undertaking that has no operational relationship to the unitary business. ()

b. In Idaho, the unitary business principle will be applied to the fullest extent allowed by the U.S. Constitution. The unitary business principle will not be applied to result in the combination of business activities or entities under circumstances where, if it were adverse to the taxpayer, the combination of such activities or entities would not be allowed by the U.S. Constitution. ()

03. Separate Trades or Businesses Conducted Within a Single Entity. A single entity may have more than one (1) unitary business. In such cases it is necessary to determine the business, or apportionable, income attributable to each separate unitary business as well as its nonapportionable income, which is specifically allocated. The apportionable income of each unitary business is then apportioned by a formula that takes into consideration the in-state and the out-of-state factors that relate to the respective unitary business whose income is being apportioned.

()

04. Unitary Business Unaffected by Formal Business Organization. A unitary business may exist within a single business entity or among a commonly controlled group of business entities. The relationship is to be determined by reference to the relationship that exists between all related and affiliated corporations, not just those corporations whose income and apportionment factors are required to be considered. For example, the relationship with foreign affiliates is to be considered even though a water's edge election is made. A related corporation may include insurance companies and fifty percent (50%) or less owned corporations. The scope of what is included in a commonly controlled group of business entities is set forth in Rule 344 of these rules. ()

341. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: DETERMINATION OF A UNITARY BUSINESS (RULE 341).

Section 63-3027, Idaho Code

01. In General. Unity can be established under any one (1) of the judicially acceptable tests (Butler Brothers, Edison California Stores, Container, etc.), and cannot be denied merely because another of those tests does not simultaneously apply. ()

02. Significant Flows of Value. A unitary business is characterized by significant flows of value evidenced by factors such as those described in *Mobil Oil Corp. v. Vermont*, 445 U.S. 425 (1980): functional integration, centralization of management, and economies of scale. These factors provide evidence of whether the business activities operate as an integrated whole or exhibit substantial mutual interdependence. Facts suggesting the presence of the factors mentioned above should be analyzed in combination for their cumulative effect and not in isolation. A particular business operation may be suggestive of one (1) or more of the factors mentioned above. ()

342. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: DESCRIPTION AND ILLUSTRATION OF FUNCTIONAL INTEGRATION, CENTRALIZATION OF MANAGEMENT AND ECONOMIES OF SCALE (RULE 342).

Section 63-3027, Idaho Code

01. Functional Integration. Functional integration refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. Functional integration includes, but is not limited to, transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks, service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present. The following is a list of examples of business operations that can support the finding of functional integration. The order of the list does not establish a hierarchy of importance. ()

a. Sales, exchanges, or transfers (collectively "sales") of products, services, or intangibles between business activities provide evidence of functional integration. The significance of the intercompany sales to the finding of functional integration will be affected by the character of what is sold and the percentage of total sales or purchases represented by the intercompany sales. For example, sales among business entities that are part of a vertically integrated unitary business are indicative of functional integration. Functional integration is not negated by the use of a readily determinable market price to effect the intercompany sales, because such sales can represent an assured market for the seller or an assured source of supply for the purchaser. ()

b. Common Marketing. The sharing of common marketing features among business entities is an indication of functional integration when such marketing results in significant mutual advantage. Common marketing exists when a substantial portion of the business entities' products, services, or intangibles are distributed or sold to a common customer, when the business entities use a common trade name or other common identification, or when the business entities seek to identify themselves to their customers as a member of the same enterprise. The use of a common advertising agency or a commonly owned or controlled in-house advertising office does not by itself establish common marketing that is suggestive of functional integration. (Such activity, however, is relevant to determining the existence of economies of scale and centralization of management.) ()

c. Transfer or Pooling of Technical Information or Intellectual Property. Transfers or pooling of

technical information or intellectual property, such as patents, copyrights, trademarks and service marks, trade secrets, processes or formulas, know-how, research, or development, provide evidence of functional integration when the matter transferred is significant to the businesses' operations. ()

d. Common Distribution System. Use of a common distribution system by the business entities, under which inventory control and accounting, storage, trafficking, or transportation are controlled through a common network provides evidence of functional integration. ()

e. Common Purchasing. Common purchasing of substantial quantities of products, services, or intangibles from the same source by the business entities, particularly where the purchasing results in significant cost savings or where products, services, or intangibles are not readily available from other sources and are significant to each entity's operations or sales, provides evidence of functional integration. ()

f. Common or Intercompany Financing. Significant common or intercompany financing, including the guarantee by, or the pledging of the credit of, one (1) or more business entities for the benefit of another business entity or entities provides evidence of functional integration, if the financing activity serves an operational purpose of both borrower and lender. Lending which serves an investment purpose of the lender does not necessarily provide evidence of functional integration. (See Subsection 342.02 of this rule for discussion of centralization of management.) ()

02. Centralization of Management. Centralization of management exists when directors, officers, or other management employees jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one (1) subsidiary entity to another, from one (1) division within a single business entity to another division within a business entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational role can be effected through mandates, consensus building, or an overall operational strategy of the business, or any other mechanism that establishes joint management. ()

a. Facts Providing Evidence of Centralization of Management. Evidence of centralization of management is provided when common officers participate in the decisions relating to the business operations of the different segments. Centralization of management may exist when management shares or applies knowledge and expertise among the parts of the business. Existence of common officers and directors, while relevant to a showing of centralization of management, does not alone provide evidence of centralization of management. Common officers are more likely to provide evidence of centralization of management than are common directors. ()

b. Stewardship Distinguished. Centralized efforts to fulfill stewardship oversight are not evidence of centralization of management. Stewardship oversight consists of those activities that any owner would take to review the performance of or safeguard an investment. Stewardship oversight is distinguished from those activities that an owner may take to enhance value by integrating one (1) or more significant operating aspects of one (1) business activity with the other business activities of the owner. For example, implementing reporting requirements or mere approval of capital expenditures may evidence only stewardship oversight. ()

03. Economies of Scale. Economies of scale refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management. The following are examples of business operations that can support the finding of economies of scale. The order of the list does not establish a hierarchy of importance. ()

a. Centralized Purchasing. Centralized purchasing designed to achieve savings due to the volume of purchases, the timing of purchases, or the interchangeability of purchased items among the parts of the business engaging in the purchasing provides evidence of economies of scale. ()

b. Centralized Administrative Functions. The performance of traditional corporate administrative

functions, such as legal services, payroll services, pension and other employee benefit administration, in common among the parts of the business may result in some degree of economies of scale. A business entity that secures savings in the performance of corporate administrative services due to its affiliation with other business entities that it would not otherwise reasonably be able to secure on its own because of its size, financial resources, or available market, provides evidence of economies of scale. ()

343. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: INDICATORS OF A UNITARY BUSINESS (RULE 343).

Section 63-3027, Idaho Code

01. Same Type of Business. Business activities that are in the same general line of business generally constitute a single unitary business, for example, a multistate grocery chain. ()

02. Steps in a Vertical Process. Business activities that are part of different steps in a vertically structured business almost always constitute a single unitary business. For example, a business engaged in the exploration, development, extraction, and processing of a natural resource and the subsequent sale of a product based upon the extracted natural resource, is engaged in a single unitary business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the business's executive offices. ()

03. Strong Centralized Management. Business activities that might otherwise be considered as part of more than one (1) unitary business may constitute one (1) unitary business when there is a strong centralized management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Strong centralized management exists when a central manager or group of managers makes substantially all of the operational decisions of the business. For example, some businesses conducting diverse lines of business may properly be considered as engaged in only one (1) unitary business when the central executive officers are actively involved in the operations of the various business activities and there are centralized offices that perform for the business activities the normal matters that a truly independent business would perform for itself, such as personnel, purchasing, advertising, or financing. ()

344. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: COMMONLY CONTROLLED GROUP OF BUSINESS ENTITIES (RULE 344).

Section 63-3027, Idaho Code

01. In General. Separate corporations can be a part of a unitary business only if they are members of a commonly controlled group. ()

02. Commonly Controlled Group. A "commonly controlled group" means any of the following: ()

a. A parent corporation and any one (1) or more corporations or chains of corporations, connected through stock ownership (or constructive ownership) with the parent, but only if: ()

i. The parent owns stock possessing more than fifty percent (50%) of the voting power of a least one (1) corporation, and, if applicable, ()

ii. Stock cumulatively possessing more than fifty percent (50%) of the voting power of each of the corporations, except the parent, is owned by the parent, one (1) or more corporations described in Subparagraph 344.02.a.i., of this rule, or one (1) or more other corporations that satisfy the conditions of this subparagraph. ()

b. Any two (2) or more corporations, if stock, possessing more than fifty percent (50%) of the voting power of the corporations is owned, or constructively owned, by the same person. ()

c. Any two (2) or more corporations that constitute stapled entities. ()

i. For purposes of this paragraph, "stapled entities" means any group of two (2) or more corporations

if more than fifty percent (50%) of the ownership or beneficial ownership of the stock possessing voting power in each corporation consists of stapled interests. ()

ii. Two (2) or more interests are stapled interests if, by reason of form of ownership, restrictions on transfer, or other terms or conditions, in connection with the transfer of one (1) of the interests the other interest or interests are also transferred or required to be transferred. ()

d. Any two (2) or more corporations, if stock possessing more than fifty percent (50%) of the voting power of the corporations is cumulatively owned (without regard to the constructive ownership rules of Paragraph 344.05.a., of this rule) by, or for the benefit of, members of the same family. Members of the same family are limited to an individual, the individual's spouse, parents, brothers, sisters, grandparents, children and grandchildren, and their respective spouses. ()

03. Elections and Terminations. ()

a. If, in the application of Subsection 344.02 of this rule, a corporation is a member of more than one (1) commonly controlled group of corporations, the corporation elects to be treated as a member of only the commonly controlled group (or part thereof) with respect to which it has a unitary business relationship. If the corporation has a unitary business relationship with more than one (1) of those groups, it elects to be treated as a member of only one (1) of the commonly controlled groups with respect to which it has a unitary business relationship. This election remains in effect until the unitary business relationship between the corporation and the rest of the members of its elected commonly controlled group is discontinued, or unless revoked with the approval of the State Tax Commission. ()

b. Membership in a commonly controlled group is to be treated as terminated in any year, or fraction thereof, in which the conditions of Subsection 344.02 of this rule are not met, except as follows: ()

i. When stock of a corporation is sold, exchanged, or otherwise disposed of, the membership of a corporation in a commonly controlled group will not be terminated, if the requirements of Subsection 344.02 of this rule are again met immediately after the sale, exchange, or disposition. ()

ii. The State Tax Commission may treat the commonly controlled group as remaining in place if the conditions of Subsection 344.02 of this rule are again met within a period not to exceed two (2) years. ()

04. Controlled. A taxpayer may exclude some or all corporations included in a "commonly controlled group" by reason of Paragraph 344.02.d., of this rule by showing that those members of the group are not controlled directly or indirectly by the same interest, within the meaning of the same phrase in Section 482 of the Internal Revenue Code. For purposes of this subsection, the term "controlled" includes any kind of control, direct or indirect, whether legally enforceable, and however exercisable or exercised. ()

05. Stock Ownership. Except as otherwise provided, stock is "owned" when title to the stock is directly held or if the stock is constructively owned. ()

a. An individual constructively owns stock that is owned by any of the following: ()

i. The individual's spouse. ()

ii. Children, including adopted children, of that individual or the individual's spouse, who have not attained the age of twenty-one (21) years. ()

iii. An estate or trust, of which the individual is an executor, trustee, or grantor, to the extent that the estate or trust is for the benefit of that individual's spouse or children. ()

b. Stock owned by a corporation, or a member of a controlled group of which the corporation is the parent corporation, is constructively owned by any shareholder owning stock that represents more than fifty percent (50%) of the voting power of the corporation. ()

c. In the application of Paragraph 344.02.d., of this rule, (dealing with stock possessing voting power held by members of the same family), if more than fifty percent (50%) of the stock possessing voting power of a corporation is, in the aggregate, owned by or for the benefit of members of the same family, stock owned by that corporation is to be treated as constructively owned by members of that family in the same ratio as the proportion of their respective ownership of stock possessing voting power in that corporation to all of such stock of that corporation. ()

d. Except as otherwise provided, stock owned by a partnership is constructively owned by any partner, other than a limited partner, in proportion to the partner's capital interest in the partnership. For this purpose, a partnership is treated as owning proportionately the stock owned by any other partnership in which it has a tiered interest, other than as a limited partner. ()

e. In any case where a member of a commonly controlled group, or shareholders, officers, directors, or employees of a member of a commonly controlled group, is a general partner in a limited partnership, stock held by the limited partnership is constructively owned by a limited partner to the extent of its capital interest in the limited partnership. ()

f. In the application of Paragraph 344.02.d., of this rule (dealing with stock possessing voting power held by members of the same family), stock held by a limited partnership is constructively owned by a limited partner to the extent of the limited partner's capital interest in the limited partnership. ()

06. Terms. For purposes of the definition of a commonly controlled group, each of the following applies: ()

a. "Corporation" means a corporation as defined in Section 63-3006, Idaho Code. ()

b. "Person" means a person as defined in Section 63-3005, Idaho Code. ()

c. "Voting power" means the power of all classes of stock entitled to vote that possess the power to elect the membership of the board of directors of the corporation. ()

d. "More than fifty percent (50%) of the voting power" means voting power sufficient to elect a majority of the membership of the board of directors of the corporation. ()

e. "Stock possessing voting power" includes stock where ownership is retained but the actual voting power is transferred in either of the following manners: ()

i. For one (1) year or less. ()

ii. By proxy, voting trust, written shareholder agreement, or by similar device, where the transfer is revocable by the transferor. ()

f. In the case of an entity treated as a corporation under Paragraph 344.06.a., of this rule, "stock possessing voting power" refers to an instrument, contract, or similar document demonstrating an ownership interest in that entity that confers power in the owner to cast a vote in the selection of the management of that entity. ()

345. -- 349. (RESERVED)

350. PRORATION OF DEDUCTIONS (RULE 350).
Section 63-3027, Idaho Code

01. In General. In most cases a taxpayer's allowable deduction applies only to the apportionable income arising from a particular trade or business or to a particular item of nonapportionable income. In some cases an allowable deduction applies to the apportionable income of more than one trade or business, to several items of nonapportionable income, or to both. In these cases the deduction is to be prorated among the trades or businesses and the items of nonapportionable income in a manner that fairly distributes the deduction among the classes of income to

which it applies. ()

02. Year to Year Consistency. If a taxpayer departs from or modifies the method used for prorating any deduction in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. ()

03. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in applying or prorating any deduction, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. ()

351. -- 354. (RESERVED)

355. APPLICATION OF SECTION 63-3027 -- APPORTIONMENT (RULE 355).

Section 63-3027, Idaho Code. If a corporation has business activity both within and without Idaho, and is taxable in another state as a result of this business activity, the portion of the net income or net loss derived from sources in Idaho will be determined by apportionment pursuant to Section 63-3027, Idaho Code. ()

356. -- 359. (RESERVED)

360. APPLICATION OF SECTION 63-3027 -- COMBINED REPORT (RULE 360).

Section 63-3027, Idaho Code. If a particular trade or business is carried on by a corporation and one (1) or more affiliates, nothing in these rules is to preclude using a combined report in which the entire apportionable income of the trade or business is apportioned pursuant to Section 63-3027, Idaho Code. The use of the combined report is restricted to C corporations. ()

361. -- 364. (RESERVED)

365. USE OF THE COMBINED REPORT (RULE 365).

Section 63-3027, Idaho Code

01. In General. Use of the combined report does not disregard the separate corporate identities of the members of the unitary group. The combined report is simply the computation, by the formula apportionment method, of the unitary apportionable income reportable to Idaho by the separate corporate members of the unitary group. For purposes of this rule, included corporation means a corporation required to file an Idaho income tax return as a result of its own activities in Idaho and using a combined report. ()

02. Separate Computations. Each included corporation will: ()

a. Be responsible for computing and paying its tax including any minimum tax due pursuant to Sections 63-3025 and 63-3025A, Idaho Code, as determined by the combined report; ()

b. Separately compute Idaho tax credits and limitations, except the investment tax credit, which is applied pursuant to Section 63-3029B, Idaho Code, and Rules 710 through 717 of these rules; and ()

c. Separately determine and pay the permanent building fund tax required by Section 63-3082, Idaho Code. ()

03. Net Operating Loss. The Idaho net operating loss carryover or carryback for each included corporation is limited to its share of the combined net operating loss apportioned to Idaho for each taxable year. See Rule 200 of these rules. ()

04. Nexus. Each corporation is to determine whether it has nexus in Idaho based on its activities or those conducted on its behalf. ()

05. Throwback Sales. When a corporation's activities conducted in a state are within the protection of Public Law 86-272, the principle established in Appeal of Joyce, Inc., California State Board of Equalization,

November 23, 1966, commonly known as the Joyce Rule, applies. Therefore, only the activities conducted by or on behalf of the corporation is to be considered for this purpose. ()

06. Filing Returns. Each included corporation may file a separate return reporting its share of the combined net income or loss of the unitary group. In the alternative, the unitary group may elect to file a group return for all the included corporations. This election is allowed as a convenience to the taxpayer. Its use does not preclude the need for the separate recognition and computational requirements in this rule. ()

07. Dividends and Other Intangible Income. Dividends and other intangible income is to be included in income subject to apportionment to the extent they constitute apportionable income received from companies not included in the combined report. However, a dividend deduction and factor adjustments are allowed to the extent dividends received are paid from prior year earnings previously included in income subject to apportionment. Part I, Subchapter C, Internal Revenue Code, is applied to determine the taxable year in which the earnings and profits were earned that paid the dividend. It is the taxpayer's responsibility to prove that the dividend, or a portion of it, was previously included in Idaho apportionable income. ()

366. -- 369. (RESERVED)

370. APPLICATION OF SECTION 63-3027 -- ALLOCATION (RULE 370).

Section 63-3027, Idaho Code. A taxpayer subject to the taxing jurisdiction of Idaho allocates all of its nonapportionable income or loss within or without Idaho pursuant to Section 63-3027, Idaho Code. ()

371. -- 374. (RESERVED)

375. CONSISTENCY AND UNIFORMITY IN REPORTING (RULE 375).

Section 63-3027, Idaho Code

01. Year to Year Consistency. If a taxpayer departs from or modifies the method used for classifying income as apportionable income or nonapportionable income in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. ()

02. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in classifying apportionable and nonapportionable income, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. ()

376. -- 384. (RESERVED)

385. TAXABLE IN ANOTHER STATE: IN GENERAL (RULE 385).

Section 63-3027(4), Idaho Code

01. In General. A taxpayer is subject to the allocation and apportionment provisions of Section 63-3027, Idaho Code, if it has income from business activity that is taxable both within and without Idaho. A taxpayer's income from business activity is taxable without Idaho if the taxpayer is taxable in another state within the meaning of Section 63-3027(4), Idaho Code, as a result of that business activity. A taxpayer is taxable in another state if it meets either of the following tests: ()

a. The taxpayer is subject to one (1) of the taxes specified in Section 63-3027(4)(a), Idaho Code, as a result of its business activity in another state; or ()

b. Another state has jurisdiction to subject the taxpayer to a net income tax as a result of its business activity, regardless of whether the state imposes the tax on the taxpayer. ()

02. Not Taxable in Another State. A taxpayer is not taxable in another state with respect to a particular trade or business merely because the taxpayer conducts activities in the other state pertaining to the production of nonapportionable income or business activities relating to a separate trade or business. ()

386. -- 389. (RESERVED)

390. TAXABLE IN ANOTHER STATE: WHEN A TAXPAYER IS SUBJECT TO TAX (RULE 390).

Section 63-3027(4)(a), Idaho Code

01. Subject to Tax. A taxpayer is subject to one of the taxes specified in Section 63-3027(4)(a), Idaho Code, if it carries on business activity in a state and that state imposes one of those taxes on it. A taxpayer that claims it is subject to one (1) of the taxes specified in Section 63-3027(4)(a), Idaho Code, is to furnish the Tax Commission, at its request, evidence to support this claim. The Tax Commission may request that evidence include proof the taxpayer has filed the required tax return in the other state and has paid any taxes imposed by the law of that state. The taxpayer's failure to provide proof may be considered in determining whether the taxpayer is subject to one of the taxes specified in Section 63-3027(4)(a), Idaho Code. ()

02. Concept of Taxability. The concept of taxability in another state is based on the premise that every state in which the taxpayer transacts business may impose an income tax even though every state does not do so. A state may impose other types of taxes as a substitute for an income tax. Only those taxes specified in Section 63-3027(4)(a), Idaho Code, that are revenue producing rather than regulatory in nature is to be considered in determining taxability in another state. ()

03. Examples of Taxability. ()

a. State A requires each corporation that qualifies or registers in State A to pay the Secretary of State an annual license fee or tax for the privilege of doing business in the state, regardless of whether it exercises the privilege. The amount paid is determined according to the total authorized capital stock of the corporation; the rates progressively increase. The statute sets a minimum fee of fifty dollars (\$50) and a maximum fee of five hundred dollars (\$500). Failure to pay the tax bars a corporation from using the state courts to enforce its rights. State A also imposes a corporation income tax. Corporation X is qualified in State A and pays the required fee to the Secretary of State, but does not transact business in State A, although it may use the courts of State A. Corporation X is not taxable in State A. ()

b. Assume the same facts as in Subsection 390.03.a., except that Corporation X is subject to and pays the corporation income tax. Payment is prima facie evidence that Corporation X is subject to the net income tax of State A and is taxable in State A. ()

c. State B requires all corporations qualified or registered in State B to pay the Secretary of State an annual permit fee or tax for doing business in the state. The base of the fee or tax is the sum of: outstanding capital stock, and surplus and undivided profits. The fee or tax base attributable to State B is determined by a three (3) factor apportionment formula. Corporation X, which operates a plant in State B, pays the required fee or tax to the Secretary of State. Corporation X is taxable in State B. ()

d. State A has a corporation franchise tax measured by net income for the privilege of doing business in that state. Corporation X files a return based on its business activity in the state, but the amount of computed liability is less than the minimum tax. Corporation X pays the minimum tax. Corporation X is subject to State A's corporation franchise tax. ()

04. Voluntary Tax Payment. A taxpayer is not subject to one (1) of the taxes specified in Section 63-3027(4)(a), Idaho Code, if the taxpayer voluntarily files and pays the tax when not required to do so by the laws of that state. ()

05. Minimum Tax or Fee. A taxpayer is not subject to one (1) of the taxes specified in Section 63-3027(4)(a), Idaho Code if it pays a minimal fee for qualification, organization, or the privilege of doing business in that state, but: ()

a. Does not transact business in that state; or ()

b. Engages in business activity not sufficient for nexus, and the minimum tax bears no relationship to the taxpayer's business activity within that state. ()

c. Example. State A has a corporation franchise tax measured by net income for the privilege of doing business in that state. Corporation X files a return and pays the fifty dollar (\$50) minimum tax, although it does not transact business in State A. Corporation X is not taxable in State A. ()

391. -- 394. (RESERVED)

395. TAXABLE IN ANOTHER STATE: WHEN A STATE HAS JURISDICTION TO SUBJECT A TAXPAYER TO A NET INCOME TAX (RULE 395).

Section 63-3027(4)(b), Idaho Code

01. In General. The test in Section 63-3027(4)(b), Idaho Code, applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of the business activity pursuant to the Constitution and statutes of the United States. Jurisdiction to tax is not present if the state is prohibited from imposing the tax due to Public Law 86-272, Title 15, Sections 381 through 385, United States Code. ()

a. When determining if a state has jurisdiction to subject a taxpayer to a net income tax, the jurisdictional standards applicable to a state of the United States is to also apply to the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof. ()

b. The provisions of a treaty between a state and the United States are not considered when determining jurisdiction to tax. ()

02. Example. Corporation X is engaged in manufacturing farm equipment in State A and in Foreign Country B. Both State A and Foreign Country B impose a net income tax but Foreign Country B exempts corporations engaged in manufacturing farm equipment. Corporation X is subject to the jurisdiction of State A and Foreign Country B. ()

396. -- 449. (RESERVED)

450. APPORTIONMENT FORMULA (RULE 450).

Section 63-3027(10), Idaho Code

01. Apportionment Factors. All of a taxpayer's apportionable income is to be apportioned to Idaho using the apportionment formula set forth in Section 63-3027(10), Idaho Code. Generally, a taxpayer's apportionment formula consists of the sales factor only. Pursuant to Section 63-3027(10)(b), however, certain taxpayers may elect an apportionment formula that includes the property factor, the payroll factor, and the sales factor. See Rules 460 through 559 of these rules for general rules applicable to these factors. See Rules 560 through 599 of these rules for special rules and exceptions to the apportionment formula. The denominator of each factor may not exceed the sum of the numerators of that factor. ()

02. Intercompany Transactions. Intercompany transactions are to be eliminated to the extent necessary to properly compute the numerators and the denominators of the apportionment factors of a combined group. The apportionment factor computation may not include property, payroll, or receipts of any affiliated corporation unless its income is included in the combined report. ()

03. Rounding. The individual factors and the average apportionment factor is to be calculated six (6) digits to the right of the decimal point. If the seventh digit is five (5) or greater, the sixth digit is rounded to the next higher number. If the seventh digit is less than five (5), the sixth digit remains unchanged and any digits remaining to its right are dropped. ()

04. Verification of Factors. The taxpayer is to make available the fifty-one (51) state apportionment factor detail when requested by the Tax Commission. Failure to do so may justify the imposition of the negligence penalty provided by Section 63-3046(a), Idaho Code. ()

451. -- 459. (RESERVED)

460. PROPERTY FACTOR: IN GENERAL (RULE 460).

Section 63-3027(16)(a), Idaho Code

01. In General. The property factor of the apportionment formula for each trade or business of the taxpayer includes all real and tangible personal property owned or rented by the taxpayer and used during the taxable year in the regular course of its trade or business. The term real and tangible personal property includes land, buildings, fixtures, inventory, equipment, and other property of a tangible nature, but does not include coin or currency. ()

02. Nonapportionable Income. Property used in connection with the production of nonapportionable income is to be excluded from the property factor. Property used both in the regular course of the taxpayer's trade or business and in the production of nonapportionable income is to be included in the factor only to the extent the property is used in the regular course of the taxpayer's trade or business. The method of determining that portion of the value to be included in the factor depends on the facts of each case. ()

03. Average Value. The property factor is to reflect the average value of property includable in the factor. See Rule 490 of these rules. ()

04. Denominator. The denominator of the factor may not exceed the sum of all the numerators. ()

461. -- 464. (RESERVED)

465. PROPERTY FACTOR: PROPERTY USED FOR THE PRODUCTION OF APPORTIONABLE INCOME (RULE 465).

Section 63-3027(16)(a), Idaho Code

01. In General. ()

a. Property is to be included in the property factor if it is used, is available for use, or capable of being used during the taxable year in the regular course of the taxpayer's trade or business. Property held as reserves or standby facilities or property held as a reserve source of materials is to be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includable in the factor. ()

b. Property or equipment under construction during the taxable year, except inventoriable goods in process, is to be excluded from the factor until the property is used in the regular course of the taxpayer's trade or business. ()

c. If the property is partially used in the regular course of the taxpayer's trade or business while under construction, the value of the property is to be included in the property factor to the extent used. ()

d. Property used in the regular course of the taxpayer's trade or business is to remain in the property factor until it is permanently withdrawn by an identifiable event such as its sale, abandonment, or any event or circumstance that renders the property incapable of being used in the regular course of the taxpayer's trade or business. ()

02. Examples. ()

a. A taxpayer closed its manufacturing plant in State X and held the property for sale. The property remained vacant until its sale one (1) year later. The value of the manufacturing plant is included in the property factor until the plant is sold. ()

b. Assume the same facts as in Subsection 465.02.a., except the property was rented until the plant was sold. The plant is included in the property factor until the plant is sold. ()

466. -- 469. (RESERVED)

470. PROPERTY FACTOR: CONSISTENCY IN REPORTING (RULE 470).

Section 63-3027(16)(a), Idaho Code

01. Year to Year Consistency. If a taxpayer departs from or modifies the method used for valuing property, or for excluding or including property in the property factor in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. ()

02. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in valuing property and in excluding or including property in the property factor, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. ()

471. -- 474. (RESERVED)

475. PROPERTY FACTOR: NUMERATOR (RULE 475).

Section 63-3027(16)(a), Idaho Code

01. In General. The numerator of the property factor is to include the average value of the real and tangible personal property owned or rented by the taxpayer and used in Idaho during the taxable year in the regular course of the taxpayer's trade or business. ()

02. Property in Transit. Property of the taxpayer that is in transit between locations is to be considered to be at the destination for purposes of the property factor. If property in transit between a buyer and seller is included by a taxpayer in the denominator of its property factor, it is to be included in the numerator according to the state of destination. ()

03. Mobile or Movable Property. ()

a. The value of mobile or movable property such as construction equipment, trucks, or leased electronic equipment located within and without Idaho during the taxable year will be determined on the basis of total time and use in Idaho as a percentage of total time and use everywhere. ()

b. An automobile assigned to a traveling employee is to be included in the numerator of the state to which the employee's compensation is assigned for the payroll factor or in the numerator of the state in which the automobile is licensed. ()

c. The value of aircraft used within and without Idaho during the taxable year will be determined by multiplying the value of the aircraft by the ratio of departures from locations in Idaho to total departures. ()

476. -- 479. (RESERVED)

480. PROPERTY FACTOR: VALUATION OF OWNED PROPERTY (RULE 480).

Section 63-3027(16)(b), Idaho Code

01. In General. Property owned by a taxpayer is to be valued at its original cost. As a general rule, original cost is deemed to be the basis of the property for federal income tax purposes, prior to any federal adjustments at the time of acquisition and adjusted by subsequent capital additions or improvements and partial disposition, by reason of sale, exchange, abandonment, etc. However, capitalized intangible drilling and development costs of producing property is to be included in the property factor whether or not they have been expensed for either federal or state tax purposes. ()

02. Examples. ()

a. A taxpayer acquired a factory building in Idaho at a cost of five hundred thousand dollars (\$500,000). Eighteen (18) months later the taxpayer remodeled the building for a cost of one hundred thousand

dollars (\$100,000). The taxpayer files its return on the calendar year basis. The taxpayer claimed a depreciation deduction of twenty-two thousand dollars (\$22,000) on its current year return. The value of the building included in the numerator and denominator of the property factor is six hundred thousand dollars (\$600,000). The depreciation deduction is not taken into account in determining the value of the building for purposes of the factor. ()

b. During the current taxable year, X Corporation merged into Y Corporation in a tax-free reorganization pursuant to the Internal Revenue Code. At the time of the merger, X Corporation owned a factory that it built five (5) years earlier at a cost of one million dollars (\$1,000,000). X has been depreciating the factory at the rate of two percent (2%) per year. Its basis in X's hands at the time of the merger is nine hundred thousand dollars (\$900,000). Since Y acquired the property in a tax-free transaction, Y includes the property in its property factor at X's original cost of one million dollars (\$1,000,000). ()

03. Unknown Original Cost. If the original cost of property cannot be determined, the property is included in the factor at its fair market value on the date it was acquired. ()

04. Inventory. Inventory is to be included in the factor according to the valuation method used for federal income tax purposes. ()

05. Gifts or Inheritance. Property acquired by gift or inheritance is to be included in the factor at its basis pursuant to the Internal Revenue Code. ()

481. -- 484. (RESERVED)

485. PROPERTY FACTOR: VALUATION OF RENTED PROPERTY (RULE 485).
Section 63-3027(16)(b), Idaho Code

01. In General. Property rented by the taxpayer is valued at eight (8) times its net annual rental rate. The net annual rental rate is the annual rental rate paid by the taxpayer for the property, less the aggregate annual subrental rates paid by subtenants. Subrents are not deducted if they constitute apportionable income because the property that produces the subrents is used in the regular course of the taxpayer's trade or business when it is producing the income. Accordingly, there is no reduction in its value. See Rules 560 and 565 of these rules for special rules when using the net annual rental rate produces a negative or clearly inaccurate value or when the taxpayer uses property at no charge or rents it at a nominal rental rate. ()

02. Examples of Subrents. ()

a. A taxpayer receives subrents from a bakery concession in a food market operated by the taxpayer. Since the subrents are apportionable income, they are not deducted from rent paid by the taxpayer for the food market. ()

b. A taxpayer rents a five (5) story office building primarily for use in its multistate business. It uses three (3) floors for its offices and subleases two (2) floors to various other businesses on a short-term basis because it anticipates it will need those two (2) floors for future expansion of its multistate business. The rental of all five (5) floors is integral to the operation of the taxpayer's trade or business. Since the subrents are apportionable income, they are not deducted from the rent paid by the taxpayer. ()

03. Annual Rental Rate. Annual rental rate is the amount paid as rent for property for a twelve (12) month period. If property is rented for less than a twelve (12) month period, the rent paid for the rental period constitutes the annual rental rate for the taxable year. However, if a taxpayer has rented property for a period of twelve (12) months or more and the current taxable year covers a period of less than twelve (12) months, the rent paid for the short taxable year is to be annualized. If the rental period is for less than twelve (12) months, the rent may not be annualized beyond its rental period. If the rental period is on a month-to-month basis, the rent may not be annualized. ()

04. Examples of Annual Rental Rate. ()

a. Taxpayer A, which ordinarily files its returns based on a calendar year, is merged into Taxpayer B on April 30. The net rent paid pursuant to a lease with five (5) years remaining is two thousand five hundred dollars (\$2,500) a month. The rent for the short taxable year January 1 to April 30 is ten thousand dollars (\$10,000). After the rent is annualized the net rent is thirty thousand dollars (\$30,000) or $(\$2,500 \times 12)$. ()

b. Assume the same facts as in Paragraph 485.04.a., of this rule except the lease would have terminated on August 31. In this example, the annualized net rent is twenty thousand dollars (\$20,000) or $(\$2,500 \times 8)$. ()

05. Annual Rent. Annual rent is the sum of money or other consideration payable, directly or indirectly, by the taxpayer or for the taxpayer's benefit for the use of the property and includes: ()

a. Any amount payable for the use of real or tangible personal property whether the amount is a fixed sum of money or a percentage of sales, profits, or otherwise. ()

b. Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, janitor services, etc. If a payment includes rent and other charges not separately stated, the amount of the rent is to be determined by considering the relative values of the rent and the other items. ()

06. Examples of Annual Rent. ()

a. Pursuant to the terms of a lease, a taxpayer pays a lessor one thousand dollars (\$1,000) per month as a base rental and at the end of the year pays the lessor one percent (1%) of its gross sales of four hundred thousand dollars (\$400,000). The annual rent is sixteen thousand dollars $(\$16,000)$ or $(\$12,000 + (1\% \times \$400,000))$. ()

b. Pursuant to the terms of a lease, a taxpayer pays a lessor twelve thousand dollars (\$12,000) a year for rent, plus taxes of two thousand dollars (\$2,000) and mortgage interest of one thousand dollars (\$1,000). The annual rent is fifteen thousand dollars $(\$15,000)$. ()

c. A taxpayer stores part of its inventory in a public warehouse. The total charge for the year is one thousand dollars (\$1,000), of which seven hundred dollars (\$700) is for storage space and three hundred dollars (\$300) is for inventory insurance, handling and shipping charges, and C.O.D. collections. The annual rent is seven hundred dollars (\$700). ()

07. Exclusions. Annual rent does not include any of the following: ()

a. Incidental day-to-day expenses such as hotel or motel accommodations, daily rental of automobiles, etc. ()

b. Royalties based on extraction of natural resources, whether represented by delivery or purchase. For this purpose, a royalty includes any consideration conveyed or credited to a holder of an interest in property that constitutes a sharing of current or future production of natural resources from the property, whether designated as a royalty, advance royalty, rental, or otherwise. ()

08. Leasehold Improvements. Leasehold improvements is to be treated as property owned by the lessee regardless of whether the lessee is entitled to remove the improvements or they revert to the lessor when the lease expires. The original cost of leasehold improvements is to be included in the lessee's factor. ()

09. Safe Harbor Lease. Property subject to a safe harbor lease will be reported in the factor of the actual user of the property at original acquisition cost. ()

486. -- 489. (RESERVED)

490. PROPERTY FACTOR: AVERAGING PROPERTY VALUES (RULE 490).
Section 63-3027(16)(c), Idaho Code

01. In General. The average value of property owned by a taxpayer is to be determined by averaging the values at the beginning and end of the taxable year. ()

02. Monthly Averaging. The Tax Commission may require or allow averaging by monthly values if that method of averaging is required to properly reflect the average value of the taxpayer's property for the taxable year. Averaging by monthly values generally applies if there are substantial fluctuations in the property values during the taxable year or if property is acquired or disposed of during the taxable year. ()

03. Rented Property. Rented property is averaged automatically by determining the net annual rental rate of the property as set forth in Rule 485 of these rules. ()

491. -- 499. (RESERVED)

500. PAYROLL FACTOR: IN GENERAL (RULE 500).
Section 63-3027(16)(d), Idaho Code

01. In General. The payroll factor of the apportionment formula for each trade or business of the taxpayer includes the total amount paid for compensation during the taxable year by the taxpayer in the regular course of its trade or business. ()

02. Compensation. For purposes of the payroll factor, compensation means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. ()

a. Compensation includes the value of board, rent, housing, lodging, and other benefits or services the taxpayer furnished to employees in return for personal services if the amounts constitute income to the recipient pursuant to the Internal Revenue Code. ()

b. If employees are not subject to the Internal Revenue Code, for example, those employed in foreign countries, the determination of whether the benefits or services would constitute income to the employees is made as if the employees were subject to the Internal Revenue Code. ()

c. If wages paid to employees are capitalized into the cost of an asset that is used in the regular course of the taxpayer's trade or business, these wages are included in the payroll factor. ()

03. Amount Paid. The total amount paid to employees is determined by the taxpayer's accounting method. If the taxpayer uses the accrual method of accounting, all compensation properly accrued is deemed to have been paid. At the election of the taxpayer, compensation paid to employees may be included in the payroll factor by using the cash method if the taxpayer is required to use that method to report compensation for unemployment insurance purposes. ()

04. Employee. For purposes of the payroll factor, employee means any officer of a corporation, or any individual who, pursuant to the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee. Generally, a person is considered an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act (FICA); except that, since certain individuals are included within the term employees in the FICA who would not be employees pursuant to the usual common-law rules, it may be established that a person who is included as an employee for purposes of the FICA is not an employee for purposes of this rule. ()

05. Exclusions. The following are excluded from the payroll factor: ()

a. Compensation paid to an employee for services connected with the production of nonapportionable income; ()

b. Payments to an independent contractor or a person not properly classifiable as an employee. ()

06. Year to Year Consistency. If a taxpayer departs from or modifies the method used for treating compensation paid in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. ()

07. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in treating compensation paid, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. ()

501. -- 504. (RESERVED)

505. PAYROLL FACTOR: DENOMINATOR (RULE 505).
Section 63-3027(16)(d), Idaho Code

01. In General. The denominator of the payroll factor is the total compensation paid everywhere during the taxable year. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation, for example, by Public Law 86-272, is included in the denominator of the payroll factor. The denominator may not exceed the sum of all numerators. ()

02. Example. A taxpayer has employees in States A, B, and C. However, in State C the taxpayer is immune from taxation by Public Law 86-272. The compensation paid to employees for services performed in State C is assigned to that state. This compensation is included in the denominator even though the taxpayer is not taxable in State C. ()

506. -- 509. (RESERVED)

510. PAYROLL FACTOR: NUMERATOR (RULE 510).
Section 63-3027(16)(d), Idaho Code. The numerator of the payroll factor is the total amount the taxpayer paid for compensation in Idaho during the taxable year. The tests in Section 63-3027(16)(e), Idaho Code, apply in determining whether compensation is paid in Idaho. It will be presumed that the total wages reported by the taxpayer to Idaho for unemployment insurance purposes constitute compensation paid in Idaho except compensation excluded by Rules 500 through 524 of these rules. The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to Idaho for unemployment insurance purposes. ()

511. -- 514. (RESERVED)

515. PAYROLL FACTOR: COMPENSATION PAID IN IDAHO (RULE 515).
Section 63-3027(16)(e), Idaho Code

01. In General. Compensation is paid in Idaho if one of the tests in Section 63-3027(16)(e), Idaho Code, is met. ()

02. Definitions. The following definitions are to be used for purposes of the payroll factor: ()

a. Incidental means a service that is temporary or transitory in nature, or that is rendered in connection with an isolated transaction. ()

b. Base of operations means the place of a more or less permanent nature where the employee starts his work and where he customarily returns to receive instructions from the taxpayer or communications from his customers or other persons, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to his trade or profession. ()

c. Place from which the service is directed or controlled means the place where the power to direct or control is exercised by the taxpayer. ()

516. -- 524. (RESERVED)

525. SALES FACTOR: IN GENERAL (RULE 525).

Section 63-3027(10)(a), Idaho Code

01. In General. Sales means all gross receipts of a taxpayer not allocated as nonapportionable income. The sales factor for each trade or business of the taxpayer includes all gross receipts derived by the taxpayer from transactions and activity in the regular course of that trade or business or otherwise required to be included as apportionable income. ()

02. Examples. ()

a. If a taxpayer manufactures and sells or purchases and resells goods or products, sales includes all gross receipts from sales of the goods or products held primarily for sale to customers in the ordinary course of the taxpayer's trade or business. Sales also includes gross receipts from the sale of other property that would be properly included in the taxpayer's inventory if on hand at the close of the taxable year. Gross receipts means gross sales, less returns and allowances and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes, including sales taxes, are included in gross receipts if these taxes are passed on to the buyer or included in the product's selling price. ()

b. In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, sales includes the entire reimbursed cost plus the fee. ()

c. If a taxpayer provides services, such as operating an advertising agency, or performing equipment service contracts or research and development contracts, sales includes the gross receipts from performing the service, including fees, commissions, and similar items. ()

d. If a taxpayer rents real or tangible property, sales includes the gross receipts from the renting, leasing, or licensing the use of the property. ()

e. If a taxpayer sells, assigns, or licenses intangible personal property, such as patents and copyrights, sales includes the gross receipts from these transactions. ()

f. If a taxpayer derives receipts from selling equipment used in its business, the receipts constitute sales. For example, a trucking company owns a fleet of trucks and sells its trucks according to a regular replacement program. The gross receipts from the sale of the trucks are included in the sales factor. ()

g. If a taxpayer derives receipts from foreign source dividends that are apportionable income, the receipts constitute sales. No other apportionment factor relief is permitted to include this dividend income. Section 78, Internal Revenue Code, foreign dividend gross-up is excluded from sales. ()

03. Disregarding Gross Receipts. In some cases, certain gross receipts should be disregarded in determining the sales factor so that the apportionment formula operates fairly to apportion the income of the taxpayer's trade or business to Idaho. See Rule 570 of these rules. ()

04. Year to Year Consistency. If a taxpayer departs from or modifies the basis used for excluding or including gross receipts in the sales factor in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. ()

05. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in including or excluding gross receipts, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. ()

526. -- 529. (RESERVED)

530. SALES FACTOR: DENOMINATOR (RULE 530).

Section 63-3027(10)(a), Idaho Code. The denominator of the sales factor includes the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business or otherwise required to be

included as apportionable income, except receipts excluded by Rules 525 through 559 and Rule 570 of these rules. The denominator may not exceed the sum of all the numerators. ()

531. -- 534. (RESERVED)

535. SALES FACTOR: NUMERATOR (RULE 535).

Section 63-3027(10)(a), Idaho Code. The numerator of the sales factor includes gross receipts attributable to Idaho and derived by the taxpayer from transactions and activity in the regular course of its trade or business or otherwise required to be included as apportionable income. All interest income, service charges, carrying charges, or time-price differential charges incidental to gross receipts are included regardless of where the accounting records are maintained or the location of the contract or other evidence of indebtedness. ()

536. -- 539. (RESERVED)

540. SALES FACTOR: SALES OF TANGIBLE PERSONAL PROPERTY IN IDAHO (RULE 540).

Section 63-3027(12), Idaho Code

01. Gross Receipts. Gross receipts from sales of tangible personal property, except sales to the United States Government as discussed in Rule 545 of these rules, are in Idaho if: ()

a. The property is delivered or shipped to a purchaser in Idaho regardless of the f.o.b. point or other conditions of sale; or ()

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in Idaho and the taxpayer is not taxable in the state of the purchaser. ()

02. Destination Sales. ()

a. Property is deemed to be delivered or shipped to a purchaser in Idaho if the recipient is in Idaho even though the property is ordered from outside Idaho. Example: A taxpayer, with inventory in State A, sold one hundred thousand dollars (\$100,000) of its products to a purchaser with branch stores in several states including Idaho. The order for the purchase was placed by the purchaser's central purchasing department in State B. Twenty-five thousand dollars (\$25,000) of the purchase order was shipped directly to purchaser's branch store in Idaho. The branch store in Idaho is the purchaser in Idaho with respect to twenty-five thousand dollars (\$25,000) of the taxpayer's sales. ()

b. Property is delivered or shipped to a purchaser in Idaho if the shipment terminates in Idaho, even if the property is subsequently transferred to another state by the purchaser. Example: A taxpayer makes a sale to a purchaser who maintains a central warehouse in Idaho where all merchandise purchases are received. The purchaser reships the goods to its branch stores in other states for sale. All of the taxpayer's products shipped to the purchaser's warehouse in Idaho constitute property delivered or shipped to a purchaser in Idaho. ()

03. Purchaser. The term purchaser in Idaho includes the ultimate recipient of the property if at the request of the purchaser the taxpayer in Idaho delivers to or has the property shipped to the ultimate recipient in Idaho. Example: A taxpayer in Idaho sold merchandise to a purchaser in State A. The taxpayer directed the manufacturer or supplier of the merchandise in State B to ship the merchandise to the purchaser's customer in Idaho according to the purchaser's instructions. The sale by the taxpayer is in Idaho. ()

04. Diverted Shipment. If a seller ships property from the state of origin to a consignee in another state, and the property is diverted while en route to a purchaser in Idaho, the sales are in Idaho. Example: The taxpayer, a produce grower in State A, begins shipping perishable produce to the purchaser's place of business in State B. While en route the produce is diverted to the purchaser's place of business in Idaho where the taxpayer is subject to tax. The sale by the taxpayer is in Idaho. ()

05. Throwback Sales. If a taxpayer is not taxable in the state of the purchaser, the sale is attributed to Idaho if the property is shipped from an office, store, warehouse, factory, or other place of storage in Idaho. Example: A taxpayer has its head office and factory in State A. It has a branch office and inventory in Idaho. The taxpayer's

only activity in State B is the solicitation of orders by a resident salesman. All orders by the State B salesman are sent to the branch office in Idaho for approval and are filled by shipment from the inventory in Idaho. Since the taxpayer is immune from tax in State B by Public Law 86-272, all sales of merchandise to purchasers in State B are attributed to Idaho, the state from which the merchandise was shipped. ()

06. Third-Party Throwback Sales. If a taxpayer's salesman operating from an office in Idaho makes a sale to a purchaser in another state where the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply: ()

a. If the taxpayer is taxable in the state from which the third-party ships the property, the sale is in that state. ()

b. If the taxpayer is not taxable in the state from which the property is shipped, the sale is in Idaho. ()

c. Example. A taxpayer in Idaho sold merchandise to a purchaser in State A. The taxpayer is not taxable in State A. On direction of the taxpayer, the merchandise was shipped directly to the purchaser by the manufacturer in State B. If the taxpayer is taxable in State B, the sale is in State B. If the taxpayer is not taxable in State B, the sale is in Idaho. ()

541. -- 544. (RESERVED)

545. SALES FACTOR: SALES OF TANGIBLE PERSONAL PROPERTY TO THE UNITED STATES GOVERNMENT IN IDAHO (RULE 545).

Section 63-3027(12), Idaho Code

01. In General. Gross receipts from sales of tangible personal property to the United States Government are in Idaho if the property is shipped from an office, store, warehouse, factory, or other place of storage in Idaho. For purposes of this rule, only sales for which the United States Government makes direct payment to the seller pursuant to the terms of a contract constitute sales to the United States Government. Generally, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, are not sales to the United States Government. ()

02. Examples. ()

a. A taxpayer contracts with the General Services Administration to deliver a truck that was paid for by the United States Government. The sale is a sale to the United States Government. ()

b. A taxpayer as a subcontractor to a prime contractor with the National Aeronautics and Space Administration contracts to build a rocket component for one million dollars (\$1,000,000). The sale by the subcontractor to the prime contractor is not a sale to the United States Government. ()

546. SALES FACTOR: SALES OTHER THAN SALES OF TANGIBLE PERSONAL PROPERTY IN THIS STATE – GENERAL RULES (RULE 546).

Section 63-3027(13), Idaho Code

01. Definitions. For the purposes of this Rules 546 through 551, these terms have the following meanings: ()

a. Billing address. The location indicated in the books and records of the taxpayer as the primary mailing address relating to a customer's account as of the time of the transaction as kept in good faith in the normal course of business and not for tax avoidance purposes. ()

b. Business customer. A customer that is a business operating in any form, including a sole proprietorship. Sales to a non-profit organization, to a trust, to the U.S. Government, to a foreign, state or local government, or to an agency or instrumentality of that government are treated as sales to a business customer and must be assigned consistent with the rules for those sales. ()

- c. Individual customer. A customer that is not a business customer. ()
- d. Intangible property. Generally means property that is not physical or whose representation by physical means is merely incidental and includes, without limitation, copyrights; patents; trademarks; trade names; brand names; franchises; licenses; trade secrets; trade dress; information; know-how; methods; programs; procedures; systems; formulae; processes; technical data; designs; licenses; literary, musical, or artistic compositions; information; ideas; contract rights including broadcast rights; agreements not to compete; goodwill and going concern value; securities; and, except as otherwise provided in these rules, computer software. ()
- e. Place of order. The physical location from which a customer places an order for a sale other than a sale of tangible personal property from a taxpayer, resulting in a contract with the taxpayer. ()
- f. Population. The most recent population data maintained by the U.S. Census Bureau for the year in question as of the close of the taxable period. ()
- g. Related Party. ()
- i. A stockholder who is an individual, or a member of the stockholder's family set forth in section 318 of the Internal Revenue Code if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock; ()
- ii. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock; or ()
- iii. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code if the taxpayer owns, directly, indirectly, beneficially or constructively, at least fifty percent (50%) of the value of the corporation's outstanding stock. The attribution rules of the Internal Revenue Code shall apply for purposes of determining whether the ownership requirements of this definition have been met. ()
- h. State where a contract of sale is principally managed by the customer. The primary location at which an employee or other representative of a customer serves as the primary contact person for the taxpayer with respect to the day-to-day execution and performance of a contract entered into by the taxpayer with the customer. ()

02. General Principles of Application – Contemporaneous Records. ()

a. A taxpayer shall apply the principles set forth in Rules 546 through 551 based on objective criteria and shall consider all sources of information reasonably available to the taxpayer at the time of its tax filing including the taxpayer's books and records kept in the normal course of the taxpayer's business. A taxpayer shall determine its method of assigning receipts in good faith and apply it consistently with respect to similar transactions and year to year. A taxpayer shall retain contemporaneous records that explain the determination and application of its method of assigning its receipts, including its underlying assumptions, and shall provide those records to the Tax Commission upon request. ()

b. Rules 546 through 551 provide various assignment rules that apply sequentially in a hierarchy. For each sale to which a hierarchical rule applies, a taxpayer must make a reasonable effort to apply the primary rule applicable to the sale before seeking to apply the next rule in the hierarchy (and must continue to do so with each succeeding rule in the hierarchy, where applicable). For example, in some cases, the applicable rule first requires a taxpayer to determine the state or states of assignment, and if the taxpayer cannot do so, the rule requires the taxpayer to reasonably approximate the state or states. In these cases, the taxpayer must attempt to determine the state or states of assignment (i.e., apply the primary rule in the hierarchy) in good faith and with reasonable effort before it may reasonably approximate the state or states. ()

c. A taxpayer's method of assigning its receipts, including the use of a method of approximation, where applicable, must reflect an attempt to obtain the most accurate assignment of receipts consistent with the standards set forth in Rules 546 through 551, rather than an attempt to lower the taxpayer's tax liability. A method of assignment that is reasonable for one taxpayer may not necessarily be reasonable for another taxpayer, depending upon the applicable facts. ()

03. Rules of Reasonable Approximation. ()

a. In General. In general, Rules 546 through 551 establish uniform provisions for determining whether and to what extent the market for a sale other than the sale of tangible personal property is in this state. These rules also set forth provisions of reasonable approximation, which apply if the state or states of assignment cannot be determined. In some instances, the reasonable approximation must be made in accordance with specific provisions of approximation prescribed in these rules. In other cases, the applicable provision in these rules permits a taxpayer to reasonably approximate the state or states of assignment, using a method that reflects an effort to approximate the results that would be obtained under the applicable provisions or standards set forth in these rules. ()

b. Approximation Based Upon Known Sales. In an instance where, applying the applicable provisions set forth in Rule 548 (Sale of a Service), a taxpayer can ascertain the state or states of assignment of a substantial portion of its receipts from sales of substantially similar services ("assigned receipts"), but not all of those sales, and the taxpayer reasonably believes, based on all available information, that the geographic distribution of some or all of the remainder of those sales generally tracks that of the assigned receipts, it shall include receipts from those sales which it believes tracks the geographic distribution of the assigned receipts in its sales factor in the same proportion as its assigned receipts. This provision also applies in the context of licenses and sales of intangible property where the substance of the transaction resembles a sale of goods or services. See Rule 549.05 and 550.01.c. ()

c. Related-Party Transactions – Information Imputed from Customer to Taxpayer. Where a taxpayer has receipts subject to these rules from transactions with a related-party customer, information that the customer has that is relevant to the sourcing of receipts from these transactions is imputed to the taxpayer, unless the taxpayer shows that imputing such knowledge is unreasonable. ()

547. SALES FACTOR: RENTAL, LEASE, OR LICENSE OF TANGIBLE PERSONAL PROPERTY (RULE 547).

Section 63-3027(13)(b), Idaho Code. In the case of a rental, lease or license of tangible personal property, the receipts from the sale are in this state if and to the extent that the property is in this state. If property is mobile property that is located both within and without this state during the period of the lease or other contract, the receipts assigned to this state are the receipts from the contract period multiplied by the fraction computed under Rule 475.03 (as adjusted when necessary to reflect differences between usage during the contract period and usage during the taxable year). ()

548. SALES FACTOR: SALE OF A SERVICE (RULE 548).

Section 63-3027(13)(c), Idaho Code

01. General Rule. The receipts from a sale of a service are in this state if and to the extent that the service is delivered to a location in this state. In general, the term "delivered to a location" refers to the location of the taxpayer's market for the service, which may not be the location of the taxpayer's employees or property. The rules to determine the location of the delivery of a service in the context of several specific types of service transactions are set forth below in Subsections 548.02 through 548.04. ()

02. In-Person Services. ()

a. In General. Except as otherwise provided in this Subsection 548.02, in-person services are services that are physically provided in person by the taxpayer, where the customer or the customer's real or tangible property upon which the services are performed is in the same location as the service provider at the time the services are performed. This Rule 548 includes situations where the services are provided on behalf of the taxpayer by a third-party contractor. Examples of in-person services include, without limitation, warranty and repair services; cleaning services; plumbing services; carpentry; construction contractor services; pest control; landscape services; medical

and dental services, including medical testing, x-rays and mental health care and treatment; childcare; hair cutting and salon services; live entertainment and athletic performances; and in-person training or lessons. In-person services include services within the description above that are performed at (1) a location that is owned or operated by the service provider or (2) a location of the customer, including the location of the customer's real or tangible personal property. Various professional services, including legal, accounting, financial and consulting services, and other similar services as described in Subsection 548.04 of this rule, although they may involve some amount of in-person contact, are not treated as in-person services within the meaning of this Subsection 548.02. ()

b. Assignment of Receipts, Rule of Determination. Except as otherwise provided in this paragraph (b.), if the service provided by the taxpayer is an in-person service, the service is delivered to the location where the service is received. Therefore, the receipts from a sale are in this state if and to the extent the customer receives the in-person service in this state. In assigning its receipts from sales of in-person services, a taxpayer must first attempt to determine the location where a service is received, as follows: ()

i. If the service is performed with respect to the body of an individual customer in this state (e.g. hair cutting or x-ray services) or in the physical presence of the customer in this state (e.g. live entertainment or athletic performances), the service is received in this state. ()

ii. If the service is performed with respect to the customer's real estate in this state or if the service is performed with respect to the customer's tangible personal property at the customer's residence or in the customer's possession in this state, the service is received in this state. ()

iii. If the service is performed with respect to the customer's tangible personal property and the tangible personal property is to be shipped or delivered to the customer, whether the service is performed within or outside this state, the service is received in this state if the property is shipped or delivered to the customer in this state. ()

c. Rule of Reasonable Approximation. In an instance in which the state or states where a service is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of receipt from which it can reasonably approximate the state or states where the service is received, the taxpayer shall reasonably approximate such state or states. ()

03. Services Delivered to the Customer or on Behalf of the Customer, or Delivered Electronically Through the Customer. ()

a. In General. If the service provided by the taxpayer is not an in-person service within the meaning of Subsection 548.02 of this rule or a professional service within the meaning of Subsection 548.04 of this rule), and the service is delivered to or on behalf of the customer, or delivered electronically through the customer, the receipts from a sale are in this state if and to the extent that the service is delivered in this state. For purposes of this Subsection 548.03, a service that is delivered "to" a customer is a service in which the customer and not a third party is the recipient of the service. A service that is delivered "on behalf of" a customer is one in which a customer contracts for a service but one or more third parties, rather than the customer, is the recipient of the service, such as fulfillment services, or the direct or indirect delivery of advertising to the customer's intended audience (see Subparagraph 548.03.b.i. below and the Example under 548.03.b.i.(3)(d) below). A service can be delivered to or on behalf of a customer by physical means or through electronic transmission. A service that is delivered electronically "through" a customer is a service that is delivered electronically to a customer for purposes of resale and subsequent electronic delivery in substantially identical form to an end user or other third-party recipient. ()

b. Assignment of Receipts. The assignment of receipts to a state or states in the instance of a sale of a service that is delivered to the customer or on behalf of the customer, or delivered electronically through the customer, depends upon the method of delivery of the service and the nature of the customer. Separate rules of assignment apply to services delivered by physical means and services delivered by electronic transmission. (For purposes of this Subsection 548.03, a service delivered by an electronic transmission is not a delivery by a physical means). If a rule of assignment set forth in this Subsection 548.03 depends on whether the customer is an individual or a business customer, and the taxpayer acting in good faith cannot reasonably determine whether the customer is an individual or business customer, the taxpayer shall treat the customer as a business customer. ()

i. Delivery to or on Behalf of a Customer by Physical Means Whether to an Individual or Business Customer. Services delivered to a customer or on behalf of a customer through a physical means include, for example, product delivery services where property is delivered to the customer or to a third party on behalf of the customer; the delivery of brochures, fliers or other direct mail services; the delivery of advertising or advertising-related services to the customer's intended audience in the form of a physical medium; and the sale of custom software (e.g., where software is developed for a specific customer in a case where the transaction is properly treated as a service transaction for purposes of corporate taxation) where the taxpayer installs the custom software at the customer's site. The rules in this Subparagraph 548.03.b.i. apply whether the taxpayer's customer is an individual customer or a business customer. ()

(1) Rule of Determination. In assigning the receipts from a sale of a service delivered to a customer or on behalf of a customer through a physical means, a taxpayer must first attempt to determine the state or states where the service is delivered. If the taxpayer is able to determine the state or states where the service is delivered, it shall assign the receipts to that state or states. ()

(2) Rule of Reasonable Approximation. If the taxpayer cannot determine the state or states where the service is actually delivered, but has sufficient information regarding the place of delivery from which it can reasonably approximate the state or states where the service is delivered, it shall reasonably approximate the state or states. ()

ii. Delivery to a Customer by Electronic Transmission. Services delivered by electronic transmission include, without limitation, services that are transmitted through the means of wire, lines, cable, fiber optics, electronic signals, satellite transmission, audio or radio waves, or other similar means, whether or not the service provider owns, leases or otherwise controls the transmission equipment. In the case of the delivery of a service by electronic transmission to a customer, the following provisions apply. ()

(1) Services Delivered By Electronic Transmission to an Individual Customer. ()

(a) Rule of Determination. In the case of the delivery of a service to an individual customer by electronic transmission, the service is delivered in this state if and to the extent that the taxpayer's customer receives the service in this state. If the taxpayer can determine the state or states where the service is received, it shall assign the receipts from that sale to that state or states. ()

(b) Rules of Reasonable Approximation. If the taxpayer cannot determine the state or states where the customer actually receives the service, but has sufficient information regarding the place of receipt from which it can reasonably approximate the state or states where the service is received, it shall reasonably approximate the state or states. If a taxpayer does not have sufficient information from which it can determine or reasonably approximate the state or states in which the service is received, it shall reasonably approximate the state or states using the customer's billing address. ()

(2) Services Delivered By Electronic Transmission to a Business Customer. ()

(a) Rule of Determination. In the case of the delivery of a service to a business customer by electronic transmission, the service is delivered in this state if and to the extent that the taxpayer's customer receives the service in this state. If the taxpayer can determine the state or states where the service is received, it shall assign the receipts from that sale to the state or states. For purposes of this subpart (548.03.b.ii.(2)), it is intended that the state or states where the service is received reflect the location at which the service is directly used by the employees or designees of the customer. ()

(b) Rule of Reasonable Approximation. If the taxpayer cannot determine the state or states where the customer actually receives the service, but has sufficient information regarding the place of receipt from which it can reasonably approximate the state or states where the service is received, it shall reasonably approximate the state or states. ()

(c) Secondary Rule of Reasonable Approximation. In the case of the delivery of a service to a business customer by electronic transmission where a taxpayer does not have sufficient information from which it can determine or reasonably approximate the state or states in which the service is received, the taxpayer shall reasonably

approximate the state or states as set forth in Rules 546 through 551. In these cases, unless the taxpayer can apply the safe harbor set forth in Subsection 548.03.b.ii.(2)(d) below, the taxpayer shall reasonably approximate the state or states in which the service is received as follows: first, by assigning the receipts from the sale to the state where the contract of sale is principally managed by the customer; second, if the state where the customer principally manages the contract is not reasonably determinable, by assigning the receipts from the sale to the customer's place of order; and third, if the customer's place of order is not reasonably determinable, by assigning the receipts from the sale using the customer's billing address; provided, however, if the taxpayer derives more than five percent (5%) of its receipts from sales of services from any single customer, the taxpayer is required to identify the state in which the contract of sale is principally managed by that customer. ()

(d) Safe Harbor. In the case of the delivery of a service to a business customer by electronic transmission a taxpayer may not be able to determine, or reasonably approximate under Subsection 548.03.b.ii.(2)(b) above, the state or states in which the service is received. In these cases, the taxpayer may, in lieu of the rule stated at Subsection 548.03.b.ii.(2)(c) above, apply the safe harbor stated in this subpart. Under this safe harbor, a taxpayer may assign its receipts from sales to a particular customer based upon the customer's billing address in a taxable year in which the taxpayer (1) engages in substantially similar service transactions with more than two hundred fifty (250) customers, whether business or individual, and (2) does not derive more than five percent (5%) of its receipts from sales of all services from that customer. This safe harbor applies only for purposes of services delivered by electronic transmission to a business customer, and not otherwise. ()

(e) Related Party Transactions. In the case of a sale of a service by electronic transmission to a business customer that is a related party, the taxpayer may not use the secondary rule of reasonable approximation in Subsection 548.03.b.ii.(2)(c) above, but may use the rule of reasonable approximation in Subsection 548.03.b.ii.(2)(b) above, and the safe harbor in Subsection 548.03.b.ii.(2)(d) above, provided that the Tax Commission may aggregate sales to related parties in determining whether the sales exceed five percent (5%) of receipts from sales of all services under that safe harbor provision if necessary or appropriate to prevent distortion. ()

iii. Services Delivered Electronically Through or on Behalf of an Individual or Business Customer. A service delivered electronically "on behalf of" the customer is one in which a customer contracts for a service to be delivered electronically but one or more third parties, rather than the customer, is the recipient of the service, such as the direct or indirect delivery of advertising on behalf of a customer to the customer's intended audience. A service delivered electronically "through" a customer to third-party recipients is a service that is delivered electronically to a customer for purposes of resale and subsequent electronic delivery in substantially identical form to end users or other third-party recipients. ()

(1) Rule of Determination. In the case of the delivery of a service by electronic transmission, where the service is delivered electronically to end users or other third-party recipients through or on behalf of the customer, the service is delivered in this state if and to the extent that the end users or other third-party recipients are in this state. For example, in the case of the direct or indirect delivery of advertising on behalf of a customer to the customer's intended audience by electronic means, the service is delivered in this state to the extent that the audience for the advertising is in this state. In the case of the delivery of a service to a customer that acts as an intermediary in reselling the service in substantially identical form to third-party recipients, the service is delivered in this state to the extent that the end users or other third-party recipients receive the services in this state. The rules in this part (548.03.b.iii.(1)) apply whether the taxpayer's customer is an individual customer or a business customer and whether the end users or other third-party recipients to which the services are delivered through or on behalf of the customer are individuals or businesses. ()

(2) Rule of Reasonable Approximation. If the taxpayer cannot determine the state or states where the services are actually delivered to the end users or other third-party recipients either through or on behalf of the customer, but has sufficient information regarding the place of delivery from which it can reasonably approximate the state or states where the services are delivered, it shall reasonably approximate the state or states. ()

(3) Select Secondary Rules of Reasonable Approximation. ()

(a) If a taxpayer's service is the direct or indirect electronic delivery of advertising on behalf of its customer to the customer's intended audience, and if the taxpayer lacks sufficient information regarding the location

of the audience from which it can determine or reasonably approximate that location, the taxpayer shall reasonably approximate the audience in a state for the advertising using the following secondary rules of reasonable approximation. If a taxpayer is delivering advertising directly or indirectly to a known list of subscribers, the taxpayer shall reasonably approximate the audience for advertising in a state using a percentage that reflects the ratio of the state's subscribers in the specific geographic area in which the advertising is delivered relative to the total subscribers in that area. For a taxpayer with less information about its audience, the taxpayer shall reasonably approximate the audience in a state using the percentage that reflects the ratio of the state's population in the specific geographic area in which the advertising is delivered relative to the total population in that area. ()

(b) If a taxpayer's service is the delivery of a service to a customer that then acts as the taxpayer's intermediary in reselling that service to end users or other third party recipients, if the taxpayer lacks sufficient information regarding the location of the end users or other third party recipients from which it can determine or reasonably approximate that location, the taxpayer shall reasonably approximate the extent to which the service is received in a state by using the percentage that reflects the ratio of the state's population in the specific geographic area in which the taxpayer's intermediary resells the services, relative to the total population in that area. ()

(c) When using the secondary reasonable approximation methods provided above, the relevant specific geographic area [of delivery] include only the areas where the service was substantially and materially delivered or resold. Unless the taxpayer demonstrates the contrary, it will be presumed that the area where the service was substantially and materially delivered or resold does not include areas outside the United States. ()

04. Professional Services. ()

a. In General. Except as otherwise provided in this Subsection 548.04, professional services are services that require specialized knowledge and in some cases require a professional certification, license or degree. These services include the performance of technical services that require the application of specialized knowledge. Professional services include, without limitation, management services, bank and financial services, financial custodial services, investment and brokerage services, fiduciary services, tax preparation, payroll and accounting services, lending services, credit card services (including credit card processing services), data processing services, legal services, consulting services, video production services, graphic and other design services, engineering services, and architectural services. ()

b. Overlap with Other Categories of Services. ()

i. Certain services that fall within the definition of "professional services" set forth in this Subsection 548.04 are nevertheless treated as "in-person services" within the meaning of subsection 548.02 above, and are assigned under the rules of that subsection. Specifically, professional services that are physically provided in person by the taxpayer such as carpentry, certain medical and dental services or child care services, where the customer or the customer's real or tangible property upon which the services are provided is in the same location as the service provider at the time the services are performed, are "in-person services" and are assigned as such, notwithstanding that they may also be considered to be "professional services." However, professional services where the service is of an intellectual or intangible nature, such as legal, accounting, financial and consulting services, are assigned as professional services under the rules of this Subsection 548.04, notwithstanding the fact that these services may involve some amount of in-person contact. ()

ii. Professional services may in some cases include the transmission of one (1) or more documents or other communications by mail or by electronic means. In some cases, all or most communications between the service provider and the service recipient may be by mail or by electronic means. However, in these cases, despite this transmission, the assignment rules that apply are those set forth in this Subsection (548.04), and not those set forth in subsection 03 above, pertaining to services delivered to a customer or through or on behalf of a customer. ()

c. Assignment of Receipts. In the case of a professional service, it is generally possible to characterize the location of delivery in multiple ways by emphasizing different elements of the service provided, no one of which will consistently represent the market for the services. Therefore, the location of delivery in the case of professional services is not susceptible to a general rule of determination, and must be reasonably approximated. The assignment of receipts from a sale of a professional service depends in many cases upon whether the customer is an individual or

business customer. In any instance in which the taxpayer, acting in good faith, cannot reasonably determine whether the customer is an individual or business customer, the taxpayer shall treat the customer as a business customer. For purposes of assigning the receipts from a sale of a professional service, a taxpayer's customer is the person that contracts for the service, irrespective of whether another person pays for or also benefits from the taxpayer's services. ()

i. General Rule. Receipts from sales of professional services other than those services described in Subparagraph 04.c.ii. below (architectural and engineering services), subparagraph 04.c.iii. below (services provided by a financial institution) and Subparagraph 548.04.c.iv. below (transactions with related parties) are assigned in accordance with this Subparagraph (548.04.c.i.). ()

(1) Professional Services Delivered to Individual Customers. Except as otherwise provided in this Subsection 548.04 (see in particular Subparagraph 548.04.c.iv.), in any instance in which the service provided is a professional service and the taxpayer's customer is an individual customer, the state or states in which the service is delivered must be reasonably approximated as set forth in part 548.04.c.i.(1) of this rule. In particular, the taxpayer shall assign the receipts from a sale to the customer's state of primary residence, or, if the taxpayer cannot reasonably identify the customer's state of primary residence, to the state of the customer's billing address; provided, however, in any instance in which the taxpayer derives more than five percent (5%) of its receipts from sales of all services from an individual customer, the taxpayer shall identify the customer's state of primary residence and assign the receipts from the service or services provided to that customer to that state. ()

(2) Professional Services Delivered to Business Customers. Except as otherwise provided in this Subsection 548.04, in any instance in which the service provided is a professional service and the taxpayer's customer is a business customer, the state or states in which the service is delivered must be reasonably approximated as set forth in this section. In particular, unless the taxpayer may use the safe harbor set forth at part 548.04.c.i.(3) below, the taxpayer shall assign the receipts from the sale as follows: first, by assigning the receipts to the state where the contract of sale is principally managed by the customer; second, if the place of customer management is not reasonably determinable, to the customer's place of order; and third, if the customer place of order is not reasonably determinable, to the customer's billing address; provided, however, in any instance in which the taxpayer derives more than five percent (5%) of its receipts from sales of all services from a customer, the taxpayer is required to identify the state in which the contract of sale is principally managed by the customer. ()

(3) Safe Harbor; Large Volume of Transactions. Notwithstanding the rules set forth in parts 548.04.c.i.(1) and (2) above, a taxpayer may assign its receipts from sales to a particular customer based on the customer's billing address in any taxable year in which the taxpayer (1) engages in substantially similar service transactions with more than two hundred fifty (250) customers, whether individual or business, and (2) does not derive more than five percent (5%) of its receipts from sales of all services from that customer. This safe harbor applies only for purposes of this Subparagraph (548.04.c.i., Professional Services General Rule) and not otherwise. ()

ii. Architectural and Engineering Services with respect to Real or Tangible Personal Property. Architectural and engineering services with respect to real or tangible personal property are professional services within the meaning of this Subsection 548.04. However, unlike in the case of the general rule that applies to professional services, (1) the receipts from a sale of an architectural service are assigned to a state or states if and to the extent that the services are with respect to real estate improvements located, or expected to be located, in the state or states; and (2) the receipts from a sale of an engineering service are assigned to a state or states if and to the extent that the services are with respect to tangible or real property located in the state or states, including real estate improvements located in, or expected to be located in, the state or states. These rules apply whether or not the customer is an individual or business customer. In any instance in which architectural or engineering services are not described in this Subparagraph (548.04.c.ii.), the receipts from a sale of these services must be assigned under the general rule for professional services. See Subparagraph 548.04.c.i. above. ()

iii. Services Provided by a Financial Institution. The apportionment rules that apply to financial institutions are set forth in Rule 582. Rule 582 includes specific rules to determine a financial institution's sales factor. However, the Financial Institutions Rule also provides that receipts from sales, other than sales of tangible personal property, including service transactions, that are not otherwise apportioned under the Financial Institutions Rule [see section 3(o) of the 1995 MTC version of the regs or section 3(n) of the 1994 version], are to be assigned

pursuant to Section 63-3027, Idaho Code, and these rules. In any instance in which a financial institution performs services that are to be assigned pursuant to Section 63-3027, Idaho Code, and these rules including, for example, financial custodial services, those services are considered professional services within the meaning of this Subsection(548.04, and are assigned according to the general rule for professional service transactions as set forth at Subparagraph 548.04.c.i. above. ()

iv. **Related Party Transactions.** In any instance in which the professional service is sold to a related party, rather than applying the rule for professional services delivered to business customers in part 548.04.c.i.(2) above, the state or states to which the service is assigned is the place of receipt by the related party as reasonably approximated using the following hierarchy: (1) if the service primarily relates to specific operations or activities of a related party conducted in one or more locations, then to the state or states in which those operations or activities are conducted in proportion to the related party's payroll at the locations to which the service relates in the state or states; or (2) if the service does not relate primarily to operations or activities of a related party conducted in particular locations, but instead relates to the operations of the related party generally, then to the state or states in which the related party has employees, in proportion to the related party's payroll in those states. The taxpayer may use the safe harbor provided by part 548.04.c.i.(3) provided that Tax Commission may aggregate the receipts from sales to related parties in applying the five percent (5%) rule if necessary or appropriate to avoid distortion. ()

05. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

549. SALES FACTOR: LICENSE OR LEASE OR INTANGIBLE PROPERTY (RULE 549).
Section 63-3027(13)(d)(i)

01. General Rules. ()

a. The receipts from the license of intangible property are in this state if and to the extent the intangible is used in this state. In general, the term "use" is construed to refer to the location of the taxpayer's market for the use of the intangible property that is being licensed and is not to be construed to refer to the location of the property or payroll of the taxpayer. The rules that apply to determine the location of the use of intangible property in the context of several specific types of licensing transactions are set forth at Subsections 549.02 through 05 of this rule. For purposes of the rules set forth in this Rule 549, a lease of intangible property is to be treated the same as a license of intangible property. ()

b. In general, a license of intangible property that conveys all substantial rights in that property is treated as a sale of intangible property for purposes of Section 63-3027, Idaho Code, and these rules. See Rule 550. Note, however, that for purposes of this Rule 549 and Rule 550, a sale or exchange of intangible property is treated as a license of that property where the receipts from the sale or exchange derive from payments that are contingent on the productivity, use or disposition of the property. ()

c. Intangible property licensed as part of the sale or lease of tangible property is treated under Section 63-3027, Idaho Code, and these rules as the sale or lease of tangible property. ()

d. Nothing in this Rule 548 shall be construed to allow or require inclusion of receipts in the sales factor that are not included in the definition of "receipts" pursuant to Section 63-3027(1)(i), Idaho Code, or related rules. ()

02. License of a Marketing Intangible. Where a license is granted for the right to use intangible property in connection with the sale, lease, license, or other marketing of goods, services, or other items (i.e., a marketing intangible) to a consumer, the royalties or other licensing fees paid by the licensee for that marketing intangible are assigned to this state to the extent that those fees are attributable to the sale or other provision of goods, services, or other items purchased or otherwise acquired by consumers or other ultimate customers in this state. Examples of a license of a marketing intangible include, without limitation, the license of a service mark, trademark, or trade name; certain copyrights; the license of a film, television or multimedia production or event for commercial distribution; and a franchise agreement. In each of these instances the license of the marketing intangible is intended to promote consumer sales. In the case of the license of a marketing intangible, where a taxpayer has actual evidence of the amount or proportion of its receipts that is attributable to this state, it shall assign that amount or proportion to this state. In the absence of actual evidence of the amount or proportion of the licensee's receipts that are derived from

this state consumers, the portion of the licensing fee to be assigned to this state must be reasonably approximated by multiplying the total fee by a percentage that reflects the ratio of the this state population in the specific geographic area in which the licensee makes material use of the intangible property to regularly market its goods, services or other items relative to the total population in that area. If the license of a marketing intangible is for the right to use the intangible property in connection with sales or other transfers at wholesale rather than directly to retail customers, the portion of the licensing fee to be assigned to this state must be reasonably approximated by multiplying the total fee by a percentage that reflects the ratio of the this state population in the specific geographic area in which the licensee's goods, services, or other items are ultimately and materially marketed using the intangible property relative to the total population of that area. Unless the taxpayer demonstrates that the marketing intangible is materially used in the marketing of items outside the United States, the fees from licensing that marketing intangible will be presumed to be derived from within the United States. ()

03. License of a Production Intangible. If a license is granted for the right to use intangible property other than in connection with the sale, lease, license, or other marketing of goods, services, or other items, and the license is to be used in a production capacity (a “production intangible”), the licensing fees paid by the licensee for that right are assigned to this state to the extent that the use for which the fees are paid takes place in this state. Examples of a license of a production intangible include, without limitation, the license of a patent, a copyright, or trade secrets to be used in a manufacturing process, where the value of the intangible lies predominately in its use in that process. In the case of a license of a production intangible to a party other than a related party where the location of actual use is unknown, it is presumed that the use of the intangible property takes place in the state of the licensee's commercial domicile (where the licensee is a business) or the licensee's state of primary residence (where the licensee is an individual). If the Tax Commission can reasonably establish that the actual use of intangible property pursuant to a license of a production intangible takes place in part in this state, it is presumed that the entire use is in this state except to the extent that the taxpayer can demonstrate that the actual location of a portion of the use takes place outside this state. In the case of a license of a production intangible to a related party, the taxpayer must assign the receipts to where the intangible property is actually used. ()

04. License of a Mixed Intangible. If a license of intangible property includes both a license of a marketing intangible and a license of a production intangible (a “mixed intangible”) and the fees to be paid in each instance are separately and reasonably stated in the licensing contract, the Tax Commission will accept that separate statement for purposes of Section 63-3027, Idaho Code, and these rules. If a license of intangible property includes both a license of a marketing intangible and a license of a production intangible and the fees to be paid in each instance are not separately and reasonably stated in the contract, it is presumed that the licensing fees are paid entirely for the license of the marketing intangible except to the extent that the taxpayer or the [tax administrator] can reasonably establish otherwise. ()

05. License of Intangible Property where Substance of Transaction Resembles a Sale of Goods or Services. ()

a. In general. In some cases, the license of intangible property will resemble the sale of an electronically-delivered good or service rather than the license of a marketing intangible or a production intangible. In these cases, the receipts from the licensing transaction are assigned by applying the provisions set forth in Subsection 548.03.b.ii. and .iii., as if the transaction were a service delivered to an individual or business customer or delivered electronically through an individual or business customer, as applicable. Examples of transactions to be assigned under this Subsection 549.05 include, without limitation, the license of database access, the license of access to information, the license of digital goods (see Rule 551.02), and the license of certain software (e.g., where the transaction is not the license of pre-written software that is treated as the sale of tangible personal property, see Rule 551.01. ()

b. Sublicenses. Pursuant to Paragraph 549.05.a. above, the provisions of Rule 548.03.b.iii. may apply where a taxpayer licenses intangible property to a customer that in turn sublicenses the intangible property to end users as if the transaction were a service delivered electronically through a customer to end users. In particular, the rules set forth in Rule 548.03.b.iii. that apply to services delivered electronically to a customer for purposes of resale and subsequent electronic delivery in substantially identical form to end users or other recipients may also apply with respect to licenses of intangible property for purposes of sublicense to end users. For this purpose, the intangible property sublicensed to an end user shall not fail to be substantially identical to the property that was licensed to the sublicensor merely because the sublicense transfers a reduced bundle of rights with respect to that property (e.g.,

because the sublicensee's rights are limited to its own use of the property and do not include the ability to grant a further sublicense), or because that property is bundled with additional services or items of property. ()

06. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

550. SALES FACTOR: SALE OF INTANGIBLE PROPERTY (RULE 550).
Section 63-3027(13)(d)(ii)

01. Assignment of Receipts. The assignment of receipts to a state or states in the instance of a sale or exchange of intangible property depends upon the nature of the intangible property sold. For purposes of this Rule (550), a sale or exchange of intangible property includes a license of that property where the transaction is treated for tax purposes as a sale of all substantial rights in the property and the receipts from transaction are not contingent on the productivity, use or disposition of the property. For the rules that apply where the consideration for the transfer of rights is contingent on the productivity, use or disposition of the property, see Subsection 549.01. ()

a. Contract Right or Government License that Authorizes Business Activity in Specific Geographic Area. In the case of a sale or exchange of intangible property where the property sold or exchanged is a contract right, government license or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, the receipts from the sale are assigned to a state if and to the extent that the intangible property is used or is authorized to be used within the state. If the intangible property is used or may be used only in Idaho the taxpayer shall assign the receipts from the sale to this state. If the intangible property is used or is authorized to be used in this state and one or more other states, the taxpayer shall assign the receipts from the sale to this state to the extent that the intangible property is used in or authorized for use in this state, through the means of a reasonable approximation. ()

b. Sale that Resembles a License (Receipts are Contingent on Productivity, Use or Disposition of the Intangible Property). In the case of a sale or exchange of intangible property where the receipts from the sale or exchange are contingent on the productivity, use or disposition of the property, the receipts from the sale are assigned by applying the rules set forth in Rule 549 (pertaining to the license or lease of intangible property). ()

c. Sale that Resembles a Sale of Goods and Services. In the case of a sale or exchange of intangible property where the substance of the transaction resembles a sale of goods or services and where the receipts from the sale or exchange do not derive from payments contingent on the productivity, use or disposition of the property, the receipts from the sale are assigned by applying the rules set forth in Subsection 549.05 (relating to licenses of intangible property that resemble sales of goods and services). Examples of these transactions include those that are analogous to the license transactions cited as examples in Subsection 549.05. ()

02. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

551. SALES FACTOR: SPECIAL RULES (RULE 551).
Section 63-3027(13), Idaho Code

01. Software Transactions. ()

a. A license or sale of pre-written software for purposes other than commercial reproduction (or other exploitation of the intellectual property rights) transferred on a tangible medium is treated as the sale of tangible personal property, rather than as either the license or sale of intangible property or the performance of a service. In these cases, the receipts are in this state as determined under the rules for the sale of tangible personal property set forth under Section 63-3027(12), Idaho Code, and related rules. In all other cases, the receipts from a license or sale of software are to be assigned to this state as determined otherwise under Rules 546 through 551 (e.g., depending on the facts, as the development and sale of custom software, see Rule 548.03, as a license of a marketing intangible, see Rule 549.02, as a license of a production intangible, see Rule 549.03, as a license of intangible property where the substance of the transaction resembles a sale of goods or services, see Rule 549.05, or as a sale of intangible property, see Rule 550. ()

02. Sales or Licenses of Digital Goods or Services. ()

a. In general. In the case of a sale or license of digital goods or services, including, among other things, the sale of various video, audio and software products or similar transactions, the receipts from the sale or license are assigned by applying the same rules as are set forth in Subsection 548.03.b.ii. or iii., as if the transaction were a service delivered to an individual or business customer or delivered through or on behalf of an individual or business customer. For purposes of the analysis, it is not relevant what the terms of the contractual relationship are or whether the sale or license might be characterized, depending upon the particular facts, as, for example, the sale or license of intangible property or the performance of a service. See Subsections 549.05 and 550.01.c. ()

b. Telecommunications Companies. In the case of a taxpayer that provides telecommunications or ancillary services, receipts from the sale or license of digital goods or services are assigned by applying the rules set forth in Subsection 548.03.b.ii. or iii. as if the transaction were a service delivered to an individual or business customer or delivered through or on behalf of an individual or business customer. However, in applying these rules, if the taxpayer cannot determine the state or states where a customer receives the purchased product it may reasonably approximate this location using the customer's "place of primary use" of the purchased product. ()

i. "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" shall be within the licensed service area of the home service provider. ()

552. – 557. (RESERVED)

558. SALES FACTOR: COSTS OF PERFORMANCE ELECTION FOR COMMUNICATIONS COMPANIES (RULE 558).

Section 63-3027(15), Idaho Code

01. Election. A communications company as defined in Section 63-3027(1)(e), Idaho Code, shall source gross receipts from transactions other than sales of tangible personal property pursuant to Section 63-3027(13), Idaho Code, and Rules 546, 548, 549, as applicable, unless it elects to source such gross receipts pursuant to Section 63-3027(15), Idaho Code, and Rule 559. The election is made by attaching a written statement of the election to the return. The statement must affirmatively state whether (1) all the income-producing activity is performed in this state, or (2) the income-producing activity is performed both in and outside this state and a greater proportion of the income producing activity is performed in this state than in any other state, based on costs of performance. This election may not be changed for a taxable year after the return for that year has been filed. An election under Section 63-3027(15), Idaho Code, and Rule 559 is independent from any election made pursuant to Section 63-3027(10)(b), Idaho Code, and Subsection 310.03. ()

02. Election Binding for Future Years. The election is binding for all years thereafter; a change off election in future years may only occur with the written permission of the tax commission. A petition to change the election must include an explanation of the legal or factual basis for requesting the change and a computation of the taxpayer's Idaho taxable income and tax liability computed using both the prior reporting method and the method the taxpayer is petitioning to use for the year of change. The written petition requesting the change of reporting method must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the tax return. ()

559. SALES FACTOR: SALES OTHER THAN SALES OF TANGIBLE PERSONAL PROPERTY IN IDAHO FOR COMMUNICATIONS COMPANIES ELECTING TO USE COSTS OF PERFORMANCE (RULE 559).

Section 63-3027(15), Idaho Code

01. In General. Communications companies as defined in Section 63-3027(1)(e), Idaho Code, may elect to source gross receipts from transactions other than sales of tangible personal property, including transactions with the United States Government, under the provisions of Section 63-3027(15), Idaho Code, and this Rule 559. Gross receipts are attributed to Idaho if the income producing activity that generates the receipts is performed wholly within Idaho. Also, gross receipts are attributed to Idaho if, with respect to a particular item of income, the income producing activity is performed within and without Idaho but the greater part of the income producing activity is performed in Idaho, based on costs of performance. ()

02. Income Producing Activity. The term income producing activity applies to each separate item of income and means the transactions and activity engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of producing that item of income. The activity includes transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. ()

a. Income producing activity includes the following: ()

i. The rendering of personal services by employees or by an agent or independent contractor acting on behalf of the taxpayer or the use of tangible and intangible property by the taxpayer or by an agent or independent contractor acting on behalf of the taxpayer in performing a service; ()

ii. The sale, rental, leasing, licensing or other use of real property; ()

iii. The rental, leasing, licensing or other use of tangible personal property; and ()

iv. The sale, licensing or other use of intangible personal property. ()

b. The mere holding of intangible personal property is not, by itself, an income producing activity. ()

03. Costs of Performance. Costs of performance are the direct costs determined in a manner consistent with generally accepted accounting principles and according to accepted conditions or practices of the taxpayer's trade or business to perform the income producing activity that gives rise to the particular item of income. Included in the taxpayer's cost of performance are taxpayer's payments to an agent or independent contractor for the performance of personal services and utilization of tangible and intangible property that give rise to the particular item of income. ()

04. Application. In general, receipts, other than from sales of tangible personal property, in respect to a particular income producing activity are in Idaho if: ()

a. The income producing activity is performed wholly in Idaho; or ()

b. The income producing activity is performed both within and without Idaho and a greater part of the income producing activity is performed in Idaho than in any other state, based on costs of performance. ()

05. Special Rules. The following are rules and examples for determining when receipts from the income producing activities described below are in Idaho: ()

a. Gross receipts from the sale, lease, rental or licensing of real property are in Idaho if the real property is located in Idaho. ()

b. Gross receipts from the rental, lease or licensing of tangible personal property are in Idaho if the property is located in Idaho. The rental, lease, licensing or other use of tangible personal property in Idaho is a separate income producing activity from the rental, lease, licensing or other use of the same property while in another state. Consequently, if property is within and without Idaho during the rental, lease or licensing period, gross receipts attributable to Idaho will be measured by the ratio that the time the property was present or used in Idaho bears to the total time or use of the property everywhere during the period. ()

c. Example. A taxpayer owns ten (10) bulldozers. During the year, each bulldozer was in Idaho fifty (50) days. The receipts attributable to the use of each bulldozer in Idaho are separate items of income and are determined as follows: ((ten (10) bulldozers x fifty (50) days) / (ten (10) bulldozers x three hundred sixty five (365) days)) x total receipts = receipts attributable to Idaho. ()

d. Gross receipts for the performance of personal services are attributable to Idaho to the extent the services are performed in Idaho. If services relating to a single item of income are performed within and without Idaho, they are attributable to Idaho only if a greater portion of the services were performed in Idaho, based on costs of performance. Usually if services are performed within and without Idaho, they constitute a separate income

producing activity. In this case the gross receipts attributable to Idaho are measured by the ratio that the time spent in performing the services in Idaho bears to the total time spent in performing the services everywhere. Time spent in performing services includes the time spent in performing a contract or other obligation that generates the gross receipts. This computation does not include personal service not directly connected with the performance of the contract or other obligation, as for example, time spent in negotiating the contract. ()

e. Example. The taxpayer, a road show, gave theatrical performances at various location in State X and in Idaho during the tax period. All gross receipts from performances given in Idaho are attributed to Idaho. ()

f. Example. The taxpayer, a public opinion survey corporation, conducted a poll in State X and in Idaho for the sum of nine thousand dollars (\$9,000). The project required six hundred (600) man hours to obtain the basic data and prepare the survey report. Two hundred (200) of the six hundred (600) man hours were expended in Idaho. The receipts attributable to Idaho are three thousand dollars (\$3,000): $(200 \text{ man hours} / 600 \text{ man hours}) \times \$9,000$. ()

06. Services on Behalf of the Taxpayer. An income producing activity performed on behalf of a taxpayer by an agent or independent contractor is attributed to Idaho if such income producing activity is in Idaho. ()

a. Such income producing activity is in Idaho: ()

i. When the taxpayer can reasonably determine at the time of filing that the income producing activity is actually performed in Idaho by the agent or independent contractor. However, if the activity occurs in more than one state, the location where the income producing activity is actually performed will be deemed to be not reasonably determinable at the time of filing under Subparagraph 559.06.a.i. of this rule. ()

ii. If the taxpayer cannot reasonably determine at the time of filing where the income producing activity is actually performed, when the contract between the taxpayer and the agent or independent contractor indicates it is to be performed in Idaho and the portion of the taxpayer's payment to the agent or contractor associated with such performance is determinable under the contract. ()

iii. If it cannot be determined where the income producing activity is actually performed and the agent or independent contractor's contract with the taxpayer does not indicate where it is to be performed, when the contract between the taxpayer and the taxpayer's customer indicates it is to be performed in Idaho and the portion of the taxpayer's payment to the agent or contractor associated with such performance is determinable under the contract; or ()

iv. If it cannot be determined where the income producing activity is actually performed and neither contract indicates where it is to be performed or the portion of the payment associated with such performance, when the domicile of the taxpayer's customer is in this state. If the taxpayer's customer is not an individual, "domicile" means commercial domicile. ()

b. If the location of the income producing activity by an agent or independent contractor, or the portion of the payment associated with such performance, cannot be determined under Subparagraphs 550.06.a.i. through 559.06.a.iii. of this rule, or the taxpayer's customer's domicile cannot be determined under Subparagraph 559.06.a.iv. of this rule, or, although determinable, such income producing activity is in a state in which the taxpayer is not taxable, such income producing activity is to be disregarded. ()

560. SPECIAL RULES (RULE 560).
Section 63-3027(17), Idaho Code

01. In General. A departure from the allocation and apportionment provisions of Section 63-3027, Idaho Code, is permitted only in limited and specific cases where the apportionment and allocation provisions contained in Section 63-3027, Idaho Code, produce incongruous results. ()

02. Alternate Methods. If the allocation and apportionment provisions of Section 63-3027, Idaho

Code, do not fairly represent the extent of all or any part of a taxpayer's business activity in Idaho, the taxpayer may petition for or the Tax Commission may require: ()

- a. Separate accounting; ()
- b. The exclusion of one (1) or more of the factors; ()
- c. The inclusion of one (1) or more additional factors that fairly represent the taxpayer's business activity in Idaho; or ()
- d. The use of any other method to achieve an equitable allocation and apportionment of the taxpayer's income. ()

03. Special Industry Methods. Section 63-3027(18), Idaho Code, authorizes the Tax Commission to establish appropriate procedures for determining the apportionment factors for each of these industries. These procedures will be applied uniformly. See Rule 580 of these rules for the list of the special industries. ()

561. -- 564. (RESERVED)

565. SPECIAL RULES: PROPERTY FACTOR (RULE 565).
Section 63-3027(18), Idaho Code

01. Subrents. ()

a. In General. If the subrents taken into account in determining the net annual rental rate pursuant to Rule 485 of these rules produce a negative or clearly inaccurate value for any item of property, another method that properly reflects the value of rented property may be required by the Tax Commission or requested by the taxpayer. The value may not be less than an amount that bears the same ratio to the annual rental rate paid by the taxpayer for the property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. ()

b. Example. A taxpayer rents a ten (10) story building at an annual rental rate of one million dollars (\$1,000,000). The taxpayer occupies two (2) stories and sublets eight (8) stories for one million dollars (\$1,000,000) a year. The taxpayer's net annual rental rate may not be less than two-tenths (0.2) of the taxpayer's annual rental rate for the entire year, or two hundred thousand dollars (\$200,000). ()

02. Market Rental Rate. If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for the property is determined based on a reasonable market rental rate for the property. ()

566. -- 569. (RESERVED)

570. SPECIAL RULES: SALES FACTOR (RULE 570).
Section 63-3027(18), Idaho Code

01. Net Gains. If gains and losses on the sale of liquid assets are not excluded from the sales factor by other provisions of this rule, such gains or losses are treated as provided in Subsection 570.02 of this rule. This subsection does not provide rules relating to the treatment of other receipts produced from holding or managing such assets. If a taxpayer holds liquid assets in connection with one (1) or more treasury functions of the taxpayer, and the liquid assets produce apportionable income when sold, exchanged or otherwise disposed, the overall net gain from those transactions for each treasury function for the tax period is included in the sales factor. For purposes of Subsection 570.02 of this rule, each treasury function is considered separately. ()

a. For purposes of Subsection 570.02 of this rule, a liquid asset is an asset, other than functional currency or funds held in bank accounts, held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. Liquid assets include foreign currency, and trading positions therein, other than functional currency used in the regular course of the taxpayer's trade or business; marketable instruments, including

stocks, bonds, debentures, bills, notes, options, warrants, futures contracts; and mutual funds which hold such liquid assets. An instrument is considered marketable if it is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market. Stock in a corporation that is unitary with the taxpayer or has a substantial business relationship with the taxpayer is not considered marketable stock. ()

b. For purposes of Subsection 570.02 of this rule, a treasury function is the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business, such as providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, and providing for business acquisitions. A taxpayer principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets set forth herein is not performing a treasury function with respect to income so produced. ()

c. Overall net gain refers to the total net gain from all transactions incurred at each treasury function for the entire tax period, not the net gain from a specific transaction. ()

d. Examples. ()

i. A taxpayer manufactures various gift items. Because of seasonal variations, the taxpayer must keep liquid assets available for later inventory acquisitions. Because the taxpayer wants to obtain a return on available funds, the taxpayer acquires liquid assets, which are held and managed in State A. The net gain resulting from all gains and losses on the sale of the liquid assets for the tax year will be reflected in the denominator of the sales factor and in the numerator of State A. ()

ii. A stockbroker acts as a dealer or trader for its own account in its ordinary course of business. Some of the instruments sold are liquid assets. Subsection 570.02 of this rule does not operate to classify those sales as attributable to a treasury function. ()

571. SPECIAL RULES: SALES FACTOR – TAXPAYERS WITH LESS THAN 3.33 PERCENT OF APPORTIONABLE GROSS RECEIPTS ASSIGNABLE (RULE 571).

Section 63-3027(18), Idaho Code

01. Definitions. As used in this Rule: ()

a. "Receipts" means sales or receipts as defined in Section 63-3027(1)(i), Idaho Code; ()

b. "Gross receipts" means gross receipts as defined in Subsection 325.07 that give rise to apportionable income included in the tax base; ()

c. "MTC Financial Institutions Apportionment Model" means the Multistate Tax Commission's Recommended Formula for the Apportionment and Allocation of the Net Income of Financial Institutions, as amended July 29, 2015; ()

d. "Gross receipts from lending activities" means interest income and other gross receipts arising from the activities described in subsections 3(d) through 3(j) of the MTC Financial Institutions Apportionment Model; ()

e. An entity's apportionment factor is "de minimis" if the denominator is less than three point three three percent (3.33%) of the entity's apportionable gross receipts or if the factor is insignificant in producing income. ()

f. "Related parties" means related parties as described in section 267 of the Internal Revenue Code. ()

02. Applicability. This Rule 571 applies when the state of assignment could not be determined (under subsections (12) and (13) of Section 63-2027, Idaho Code) for more than ninety-six point seven seven percent (96.77%) of a taxpayer's apportionable gross receipts. ()

03. Sales Factor. The following gross receipts are included in the sales factor denominator and are assigned to the sales factor numerator in this state as follows: ()

a. Dividends paid by a related party are assigned to the sales factor numerator in this state as follows: ()

i. If paid from earnings that can be reasonably attributed to a particular year, the dividends are assigned to the sales factor numerator in this state in a proportion equal to the dividend payor's apportionment factors in this state for that year as determined pursuant to Section 63-3027, Idaho Code. ()

ii. If the dividends were paid from earnings that cannot reasonably be attributed to a particular year, the dividends are assigned to the sales factor numerator in this state in a proportion equal to the dividend payor's average apportionment factors in this state for the current and preceding year as determined pursuant to Section 63-3027, Idaho Code. ()

b. Gains are assigned to the sales factor numerator in this state as follows: ()

i. Gains (net of related losses, but not less than zero) from the disposition of stock (or other intangible property rights) representing at least a twenty percent (20%) ownership interest in an entity, are assigned to the sales factor numerator in this state in a proportion equal to what the entity's separate apportionment factor was in this state for the tax year preceding the disposition as determined pursuant to state law. ()

ii. Gains (net of related losses, but not less than zero (0)) from the disposition of assets of an entity or segment of a business are assigned to the sales factor numerator in this state in a proportion equal to what the entity's separate apportionment factor was in this state in the tax year preceding the disposition as determined pursuant to Section 63-3027, Idaho Code. ()

iii. In applying subparagraphs i. and ii. of this paragraph b., in any case in which the entity did not exist in the prior year, or had an apportionment factor of zero (0) [or had only a de minimis apportionment factor], the gross receipts from the gain are attributed to the sales factor numerator of this state under Subsections 571.04, 05, or 06 of this rule as appropriate. ()

iv. In applying this paragraph b., in the case of an entity which was not subject to entity-level taxation, the apportionment percentage shall be computed as if the entity were a C corporation. ()

c. Gross receipts from lending activities are included in the sales factor denominator and assigned to the sales factor numerator in this state to the extent those gross receipts would have been assigned to this state under the MTC Financial Institutions Apportionment Model (including the rule of assignment to commercial domicile under 3(p) of that model statute) as if the taxpayer were a financial institution subject to the MTC Financial Institutions Apportionment Model, except that: ()

i. In the case of gross receipts derived from loans to a related party, which are not secured by real property, including interest, fees, and penalties, the gross receipts are included in this state's numerator in a proportion equal to the related party's apportionment factor in this state as determined by Section 63-3027, Idaho Code, in the year the gross receipts were included in apportionable income; and ()

ii. Gross receipts derived from accounts receivable previously sold to or otherwise transferred to the taxpayer are assigned under paragraph d. of this rule. ()

d. Gross receipts derived from accounts receivable previously sold to or otherwise transferred to the taxpayer are included in the denominator and assigned to the sales factor numerator in this state to the extent those accounts receivable are attributed to borrowers located in this state; provided however, that if the taxpayer is not taxable in a state in which the borrowers are located, those gross receipts are excluded from the denominator of the taxpayer's sales factor. ()

e. The net amount, but not less than zero (0), of gross receipts not otherwise assigned under this Subsection 03 arising from investment activities, including the holding, maturity, redemption, sale, exchange, or

other disposition of marketable securities or cash are assigned to the sales factor numerator in this state if the gross receipts would be assigned to this state under Subsections (3)(n) or (3)(p) of the MTC's Financial Institutions Apportionment Model; all other gross receipts from investment activities not otherwise assigned under this Subsection 03 are assigned to the sales factor numerator in this state if the investments are managed in this state. ()

04. Sales Factor: Other Gross Receipts. Gross receipts, other than those included and assigned under Subsection 03, are included in the sales factor denominator, and are assigned to the sales factor numerator in this state in a proportion equal to the average of the taxpayer's other non-de minimis apportionment factors (property and/or payroll) in this state as determined pursuant to Section 63-3027(16), Idaho Code. ()

05. Sales Factor: Other Gross Receipts for Members of a Combined Report. Except for gross receipts included and assigned under Subsection 03 or 04, gross receipts of a taxpayer whose income and factors are included in a combined report in this state are included in the sales factor denominator and are assigned to the sales factor numerator in this state in the same proportion as the ratio of: (A) the total of the sales factor numerators of all members of the combined group in this state, whether taxable or nontaxable, to (B) the denominator of the combined group. ()

06. Sales Factor: Other Gross Receipts for Members of a Federal Consolidated Return. Except for those gross receipts included and assigned under Subsection 03, 04, or 05 of this rule, gross receipts of a taxpayer that files as part of a federal consolidated return are included in the sales factor denominator and are assigned to the sales factor numerator in this state in a proportion equal to a percentage (but not greater than one hundred percent (100%)), the numerator of which is the total of the consolidated group members' income allocated to or apportioned to this state pursuant to Section 63-3027, Idaho Code, and the denominator of which is the total federal consolidated taxable income. ()

07. Alternative Apportionment. Nothing in this Rule 571 shall prohibit the taxpayer from petitioning for, or the Tax Commission from applying an alternative method to calculate the taxpayer's sales factor in order to fairly represent the extent of the taxpayer's business activity in this state as provided for in Section 63-3027(17), Idaho Code, including the application of this rule in situations that do not meet the threshold of Subsection 571.02 of this Rule. Such alternative method may be appropriate, for example, in situations otherwise addressed under Subsection 57103.a. where dividends were paid from earnings that were generated by the activities of a related party of the dividend payor, in which case the dividends may be more appropriately assigned to the sales factor numerator in this state using the related party's average apportionment factors in this state. ()

08. Examples. Examples available at <https://tax.idaho.gov/i-2076.cfm>. ()

572. -- 579. (RESERVED)

580. SPECIAL RULES: SPECIAL INDUSTRIES (RULE 580).
Section 63-3027(18), Idaho Code

01. Adoption of MTC Special Industry Regulations. This rule incorporates by reference the MTC special industry regulations as adopted in Subsection 003.01 of these rules. Copies of the MTC special industry regulations may also be obtained from the main office of the Idaho State Tax Commission. The following special industries are to apportion income in accordance with the applicable MTC regulation: ()

a. Construction Contractors. The apportionment of income derived by a long-term construction contractor is to be computed in accordance with MTC Regulation IV.18.(d). as adopted July 10, 1980; ()

b. Airlines. The apportionment of income derived by an airline is to be computed in accordance with MTC Regulation IV.18.(e). as adopted July 14, 1983; ()

c. Railroads. The apportionment of income derived by a railroad is to be computed in accordance with MTC Regulation IV.18.(f). as adopted July 16, 1981; ()

d. Trucking Companies. The apportionment of income derived by motor common carriers, motor

contract carriers, or express carriers that primarily transport tangible personal property of others is to be computed in accordance with MTC Regulation IV.18.(g). as amended July 27, 1989, for taxable years beginning on or after January 1, 1997. ()

e. Television and Radio Broadcasting. The apportionment of income derived from television and radio broadcasting is to be computed in accordance with MTC Regulation IV.18.(h). as amended April 25, 1996, for taxable years beginning on or after January 1, 1995. ()

f. Publishing. The apportionment of income derived from the publishing, sale, licensing or other distribution of books, newspapers, magazines, periodicals, trade journals or other printed material is to be computed in accordance with MTC Regulation IV.18.(j). as adopted July 30, 1993, for taxable years beginning on or after January 1, 1995. ()

g. Financial Institutions. See Rule 582 of these rules for the apportionment of income by a financial institution for taxable years beginning on or after January 1, 1998. ()

02. **References.** See Rule 581 of these rules for the applicability of references used in the MTC special industry regulations and the calculation of the apportionment percentage. ()

581. SPECIAL RULES: REFERENCES USED IN MTC SPECIAL INDUSTRY REGULATIONS (RULE 581).

Section 63-3027(s), Idaho Code. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references in the MTC special industry regulations means the following: ()

- 01. **Article IV.** Of The Multistate Tax Compact. ()
- a. Article IV. means Section 63-3027, Idaho Code. ()
- b. Article IV.1 means Section 63-3027(1), Idaho Code. ()
- c. Article IV.2 means Section 63-3027(2), Idaho Code. ()
- d. Article IV.3 means Section 63-3027(3), Idaho Code. ()
- e. Article IV.4 means Section 63-3027(4), Idaho Code. ()
- f. Article IV.5 means Section 63-3027(5), Idaho Code. ()
- g. Article IV.6 means Section 63-3027(6), Idaho Code. ()
- h. Article IV.7 means Section 63-3027(7), Idaho Code. ()
- i. Article IV.8 means Section 63-3027(8), Idaho Code. ()
- j. Article IV.9 means Section 63-3027(10)(a), Idaho Code. ()
- k. Article IV.10 means Section 63-3027(16)(a), Idaho Code. ()
- l. Article IV.11 means Section 63-3027(16)(b), Idaho Code. ()
- m. Article IV.12 means Section 63-3027(16)(c), Idaho Code. ()
- n. Article IV.13 means Section 63-3027(16)(d), Idaho Code. ()
- o. Article IV.14 means Section 63-3027(16)(e), Idaho Code. ()
- p. Article IV.15 means Section 63-3027(10)(a), Idaho Code. ()

- q. Article IV.16 means Section 63-3027(12), Idaho Code. ()
- r. Article IV.17 means Section 63-3027(13), Idaho Code. ()
- s. Article IV.18 means Section 63-3027(17), Idaho Code. ()
- 02. MTC Regulations.** ()
- a. Regulation IV.1 means Rules 330 through 354 of these rules. ()
- b. Regulation IV.2 means Rule 325 and Rules 355 through 384 of these rules. ()
- c. Regulation IV.3 means Rules 385 through 399 of these rules. ()
- d. Regulation IV.9 means Rules 450 through 459 of these rules. ()
- e. Regulation IV.10 means Rules 460 through 479 of these rules. ()
- f. Regulation IV.11 means Rules 480 through 489 of these rules. ()
- g. Regulation IV.12 means Rules 490 through 499 of these rules. ()
- h. Regulation IV.13 means Rules 500 through 514 of these rules. ()
- i. Regulation IV.14 means Rules 515 through 524 of these rules. ()
- j. Regulation IV.15 means Rules 525 through 539 of these rules. ()
- k. Regulation IV.16 means Rules 540 through 545 of these rules. ()
- l. Regulation IV.17 means Rules 546 through 559 of these rules. ()
- m. Regulation IV.18.(a) means Rules 560 through 564 of these rules. ()
- n. Regulation IV.18.(b) means Rules 565 through 569 of these rules. ()
- o. Regulation IV.18.(c) means Rules 570 through 574 of these rules. ()
- 03. Tax Administrator.** Tax Administrator means Tax Commission. ()
- 04. This State.** This state means Idaho. ()
- 05. The Apportionment Percentage.** ()

a. The default apportionment method in Idaho is sales factor only. If any MTC special industry regulation adopted by Idaho includes a property and payroll factor, by default, those provisions will be ignored, and the taxpayer will only use the sales factor provisions to calculate an apportionment percentage. However, pursuant to Section 63-3027(10)(b), Idaho Code, taxpayers subject to special industry regulations may elect to use the property, payroll, and sales factors, if the special industry regulation applicable to them provides for a property and/or payroll factor. See Rule 310 for instructions on making the election. ()

582. SPECIAL RULES: FINANCIAL INSTITUTIONS (RULE 582).
Section 63-3027(s), Idaho Code

01. Adoption of MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This rule incorporates by reference the MTC “Recommended Formula for the

Apportionment and Allocation of Net Income of Financial Institutions” as adopted in Subsection 003.02 of these rules. A copy of this regulation may be obtained from the main office of the Idaho State Tax Commission. ()

02. Definition of Financial Institution. “Financial institution” means: ()

a. Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended; ()

b. A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, Title 12, Sections 21 et seq., United States Code; ()

c. A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, Title 12, Section 1813(b)(1), United States Code; ()

d. Any bank or thrift institution incorporated or organized under the laws of any state; ()

e. Any corporation organized under the provisions of Title 12, Sections 611 to 631, United States Code; ()

f. Any agency or branch of a foreign depository as defined in Title 12, Section 3101, United States Code; ()

g. A production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired; ()

h. Any corporation or other business entity that is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in Paragraphs 582.02.a. through 582.02.g. ()

i. A corporation or other business entity that, in the current tax year and immediately preceding two (2) tax years, derived more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a finance lease means any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. This includes any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. ()

j. Any corporation or business entity that derives more than fifty percent (50%) of its gross income from activities that a person described in Paragraphs 582.02.a. through 582.02.g. and 582.02.i. of this rule is authorized to transact. For purposes of this subsection, the computation of gross income does not include income from non-recurring, extraordinary items. ()

03. Exclusion from Paragraph 582.02.j. The Tax Commission is authorized to exclude any person from the application of Paragraph 582.02.j. upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in Paragraphs 582.02.a. through 582.02.g. and 582.02.i. ()

04. Act Defined. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references to [Act] in the MTC Recommended Formula for Financial Institutions refers to the Idaho Income Tax Act. ()

583. -- 584. (RESERVED)

585. EXCEPTIONS TO APPORTIONMENT FORMULA: SEPARATE ACCOUNTING (RULE 585). Section 63-3027(17), Idaho Code. Separate accounting may be used only with prior approval of the Tax Commission. A written request must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the return. The Tax Commission is to notify the taxpayer whether the request has been approved or denied. This

determination is based on whether the taxpayer has overcome the presumption that separate accounting will not be allowed when unitary filing and apportionment more accurately reflect the taxpayer's income. ()

586. -- 594. (RESERVED)

595. EXCEPTIONS TO APPORTIONMENT FORMULA: ADDITIONAL OR SUBSTITUTE FACTORS (RULE 595).

Section 63-3027(17), Idaho Code. A factor other than the sales factor may be used only with prior approval of the Tax Commission. A written request must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the return. The Tax Commission is to notify the taxpayer whether the request has been approved or denied. The taxpayer must establish that the use of the additional factor or substitute factor more accurately reflects the taxpayer's income. ()

596. -- 599. (RESERVED)

600. ENTITIES INCLUDED IN A COMBINED REPORT (RULE 600).

Section 63-3027(22), Idaho Code

01. Combined Report. Each corporation that is a member of a unitary business transacting business within and without Idaho is to allocate and apportion its income to Idaho using a combined report pursuant to Rules 360 through 369 of these rules. See Rules 340 through 344 of these rules for the principles for determining the existence of a unitary business. ()

02. Domestic International Sales Corporations. If an affiliated group subject to the income tax jurisdiction of Idaho owns more than fifty percent (50%) of the voting power of the stock of a corporation classified as a Domestic International Sales Corporation (DISC) pursuant to the provisions of Section 992, Internal Revenue Code, a combined filing with the DISC is required. ()

03. Foreign Sales Corporations. If an affiliated group subject to the income tax jurisdiction of Idaho owns more than fifty percent (50%) of the voting power of the stock of a corporation classified as a Foreign Sales Corporation (FSC) pursuant to the provisions of Section 922, Internal Revenue Code, a combined filing with the FSC is required. ()

04. Intercompany Transactions. If a return is filed on a combined basis, the intercompany transactions are to be eliminated to the extent necessary to properly reflect combined income and to properly compute the apportionment factor. ()

a. Dividends received from a real estate investment trust or a regulated investment company and not included in the pre-apportionment tax base as a result of the federal deduction for dividends paid allowed to the dividend payor are not eliminated as intercompany transactions in computing combined income. ()

b. Internal Revenue Code Section 1248 Dividends. ()

i. Taxpayers Using the Worldwide Filing Method. A corporation included in a worldwide combined group is to treat Section 1248 dividends as dividends for Idaho income tax purposes. An intercompany dividend elimination is allowed to the extent dividends received are paid from current or prior year earnings previously included in income subject to apportionment. ()

ii. Taxpayers Using the Water's Edge Filing Method. A corporation included in a water's edge combined group is to treat Section 1248 dividends as dividends that qualify for the dividend exclusion allowed by Section 63-3027C(c)(1), Idaho Code. ()

c. Dividends received from a stock insurance subsidiary and deducted by a mutual insurance holding company or an intermediate holding company pursuant to Section 41-3821, Idaho Code, are not eliminated as intercompany transactions in computing combined income. ()

05. Insurance Companies. Pursuant to Section 41-405, Idaho Code, payment of an Idaho tax upon an

insurance company's premiums will be in lieu of an income tax. ()

a. If an insurance company is a member of a unitary business and pays the Idaho premium tax, the insurance company is to be included in the combined group and its income and factor attributes included in the combined report. The income tax attributable to the insurance company is to be deducted from the total tax computed in the combined report. Income tax credits that the insurance company may have earned may not be shared with other members of the unitary group. ()

b. If an insurance company is a member of a unitary business and pays a premium tax to a state other than Idaho, or does not pay a premium tax to any state, the insurance company is to be included in the combined group and its income and factor attributes included in the combined report. The insurance company is liable for the Idaho income tax computed on its activity in Idaho and is not exempt from the income tax as a result of Section 41-405, Idaho Code. ()

601. -- 604. (RESERVED)

605. ELEMENTS OF A WORLDWIDE COMBINED REPORT (RULE 605).
Section 63-3027(22), Idaho Code

01. Income: In General. Income for the worldwide combined group is to be computed on the same basis as taxable income subject to modifications contained in Sections 63-3022 and 63-3027, Idaho Code, and related rules. ()

02. Income: Foreign Corporations Included in a Federal Consolidated Return. Corporations incorporated outside the United States that are included in a federal consolidated return is to include in the combined report the taxable income reported on the federal consolidated return. ()

03. Income: Foreign Corporations Not Included in a Federal Consolidated Return. Corporations incorporated outside the United States that are not included in a federal consolidated return, is to include in the combined report either the amount in Subsection 605.03.a. or 605.03.b. as the equivalent of taxable income. The option chosen must be used for all unitary foreign corporations not included in a federal consolidated return. ()

a. The taxpayer may use the financial net income before income taxes as reported to the United States Securities and Exchange Commission (SEC) if required to file with the SEC. If not required to file with the SEC, the taxpayer may use the financial net income before income taxes as reported to shareholders and subject to review by an independent auditor. ()

b. The taxpayer may use the financial net income of each foreign corporation adjusted to conform to tax accounting standards as would be required by the Internal Revenue Code if the corporation were a domestic corporation required to file a federal income tax return. ()

04. Consistent Application of Book to Tax Adjustments. If adjustments are made to conform financial net income to tax accounting standards, all book to tax adjustments as required by the Internal Revenue Code for domestic corporations is to be made for each unitary foreign corporation included in the combined report and is to be consistently applied in each year for which the worldwide method applies. These adjustments are subject to the record-keeping requirements of the Internal Revenue Code and Treasury Regulations for domestic corporations. ()

05. Apportionment Factors. The rules for inclusion, value, and attribution of apportionment factors by location for the worldwide combined group is to be determined pursuant to Section 63-3027, Idaho Code, and related rules. Only the apportionment factor attributes of those corporations included in the worldwide combined group may be used. ()

606. -- 619. (RESERVED)

620. ATTRIBUTING INCOME OF CORPORATIONS THAT ARE MEMBERS OF PARTNERSHIPS (RULE 620).

Section 63-3027, Idaho Code

01. In General. If a corporation required to file an Idaho income tax return is a member of an operating partnership, the corporation is to report its Idaho taxable income, including its share of income from the partnership, in accordance with this rule. For purposes of this rule, the term partnership includes a joint venture. ()

02. Transacting Business. A corporation is transacting business in Idaho if it is a partner in a partnership that is transacting business in Idaho even though the corporation has no other contact with Idaho. In this case, both the partnership and the corporation have an Idaho filing requirement. ()

03. Multistate Partnerships. If a partnership operates in more than one state, its income is to be apportioned and allocated on the partnership return as if the partnership were a corporation. The allocation and apportionment rules of Section 63-3027, Idaho Code, and related rules apply to the partnership. ()

04. Partnership Income as Apportionable Income of the Partner. ()

a. Income. If the income or loss of a partnership is apportionable income or loss to a corporate partner, its share of this net apportionable income or loss is to be apportioned together with all other net apportionable income or loss of the corporation. Apportionable income or loss is defined by Section 63-3027(1)(a), Idaho Code, and Rules 330 through 336 of these rules. ()

b. Factors. A corporate partner's share of the partnership property, payroll, and sales after intercompany eliminations, is to be included in the numerators and the denominators of the partner's property, payroll, and sales factors when computing its apportionment formula. The partner's share of the partnership's property, payroll, and sales is determined by attributing the partnership's property, payroll, and sales to the partner in the same proportion as its distributive share of partnership income if reporting net income for the taxable year or in the same proportion as its distributive share of partnership losses if reporting a net loss for the taxable year. Generally, the partnership's property, payroll, and sales includable in the corporation's factor computations is determined in accordance with Section 63-3027, Idaho Code, and related rules. To determine how the sales attribution rules of Sections 63-3027(12) and (13), Idaho Code, apply to the sales factor of the corporate partner, the sales of the partnership are treated as if they were sales of the corporation. ()

05. Partnership Income as Nonapportionable Income of Partner. ()

a. Income. If the partnership income or loss is not apportionable income to a corporate partner, the income is nonapportionable income as defined in Section 63-3027(1)(h), Idaho Code, and Rules 335 through 339 of these rules. The corporate partner is to allocate the nonapportionable income to the state in which it was earned. The corporate partner, on its Idaho corporation income tax return, is to specifically allocate to Idaho its share of the nonapportionable income attributable to Idaho. ()

b. Factors. If the partnership income or loss is nonapportionable income to the corporate partner, none of the partnership property, payroll, or sales may be included in the computation of the factors of the corporation. ()

621. -- 639. (RESERVED)

640. WATER'S EDGE: MAKING THE ELECTION (RULE 640).

Section 63-3027B, Idaho Code

01. In General. Rules 640 through 649 of these rules apply to taxpayers electing to use the water's edge filing method. To the extent that these rules conflict with any other rules pursuant to this Act, Rules 640 through 649 of these rules control. ()

02. The Election. The water's edge election is made for purposes of determining which corporations are included in a combined group for Idaho income tax purposes. If a corporation is not part of a unitary group for

which a combined report is required, the corporation cannot make the water's edge election. The election must be made in accordance with Sections 63-3027B through 63-3027E, Idaho Code, and Rules 640 through 649 of these rules. ()

a. The election may be made for a year beginning on or after January 1, 1993. The election must be filed with the original tax return for the first year of the election. If the water's edge group changes in a subsequent year through the acquisition or disposition of a corporation with an Idaho filing requirement, a copy of the election is to be attached to the tax return for such taxable year and the changes to the water's edge group is to be noted on the form. See Rule 643 of these rules for Change of Election. ()

b. Any corporation included in the unitary group that files with Idaho a consent to the reasonable production of documents may make the election on behalf of the group. An election made by any member of a unitary group binds all other members regardless of any changes in the unitary group in later taxable years. ()

c. The election must be made on a form provided by the Tax Commission and include a list of each corporation required to file an Idaho income tax return. The election must be signed by an individual authorized to bind all companies to the election. ()

d. Idaho taxpayers having a valid water's edge election is to compute Idaho taxable income in accordance with Sections 63-3027 and 63-3022, Idaho Code, except as modified by Sections 63-3027B through 63-3027E, Idaho Code, and Rules 640 through 649 of these rules. ()

03. Failure to Include Election. Failure to include the election with the first return to which the election applies results in Idaho taxable income being determined in accordance with Sections 63-3027 and 63-3022, Idaho Code. ()

641. WATER'S EDGE: ELEMENTS OF A COMBINED REPORT (RULE 641).

Section 63-3027B, Idaho Code

01. Income. Income for the water's edge combined group is computed on the same basis as taxable income subject to modifications contained in Sections 63-3022 and 63-3027, Idaho Code, and related rules. Intercompany transactions between members of the water's edge combined group is to be eliminated to the extent necessary to properly reflect combined income. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation will be included in the computation of the income of the water's edge combined group. ()

02. Factors. The rules for inclusion, value, and attribution of apportionment factors by location for the water's edge combined group is to be determined pursuant to Section 63-3027, Idaho Code, and related rules. Intercompany transactions between members of the group is to be eliminated to the extent necessary to properly compute the apportionment factors of the water's edge combined group. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation is to be included, if appropriate, when determining apportionment factors. Dividends, to the extent included in apportionable income, is to be included in the sales factor computation. ()

03. Foreign Corporations Filing Protective Returns. A foreign corporation filing a protective Form 1120-F return will not be deemed to be filing a federal income tax return for purposes of taking into account the income and apportionment factors of affiliated corporations in a unitary relationship with the taxpayer solely on the basis of filing this federal return. If subsequent to the filing of the protective 1120-F return it is determined that the foreign corporation had income effectively connected with the United States and was required to file a federal income tax return, the income and apportionment factors of the foreign corporation is required to be included in the combined report of the unitary group for such taxable year and an Idaho return or amended return may be required. ()

642. WATER'S EDGE: LEGAL AND PROCEDURAL REQUIREMENTS (RULE 642).

Section 63-3027B, Idaho Code

01. Required Form. Proper filing of the water's edge election and consent for production of records must be made on the form provided by the Tax Commission and included in the original income tax return for the first

tax year to which the election applies. ()

02. Required Information. The following information must be included with each year's tax return for which a water's edge election applies: ()

a. A complete list of all affiliated corporations, foreign and domestic, of which more than twenty percent (20%) of the voting stock is, directly or indirectly, owned or controlled by a common owner; ()

b. Identifying information for each member of the water's edge combined group, including: federal identification number, primary business activities, percent of ownership by members of the combined group, and dates of acquisition or disposition of interest; ()

c. A copy of the federal consolidated return, if applicable; and ()

d. A schedule of taxable income for each possession corporation excluded from the water's edge group pursuant to Section 63-3027B(a), Idaho Code. ()

643. WATER'S EDGE: CHANGE OF ELECTION (RULE 643).
Section 63-3027C, Idaho Code

01. In General. Except as provided in Section 63-3027C(a) (1), Idaho Code, the taxpayer must submit a written petition to the Tax Commission and be granted written permission to change its reporting method from water's edge for any subsequent tax year. ()

a. A change in the reporting method includes conversion from the water's edge filing method to the worldwide filing method as well as the addition of companies previously omitted or the exclusion of companies previously included in the water's edge combined group, except in the case of companies acquired or disposed of during the taxable year. ()

b. The Tax Commission may determine that one or more affiliated corporations should be included or excluded from the water's edge combined group. Income and apportionment factors is to be modified accordingly. ()

02. Written Petition. A written petition must include the following: ()

a. An explanation of the legal or factual basis for requesting the change of reporting method; and ()

b. A computation of the taxpayer's Idaho taxable income and tax liability computed using both the prior reporting method and the method the taxpayer is petitioning to use for the year of change. ()

03. Due Date for Filing the Written Petition. The written petition requesting the change of reporting method must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the tax return. ()

04. Failure to Provide Required Information. Failure to provide complete and accurate information necessary for the Tax Commission's review of the petition constitutes grounds for denial of the taxpayer's petition or disregard of the taxpayer's election. ()

05. Approval Attached to Original Return. A copy of the Tax Commission's written approval of the change in reporting method must be attached to the original return for the year in which the change is first made. ()

06. Appeal Rights. A taxpayer may appeal the Tax Commission's denial of a request to change the method of filing, by submitting a written letter of protest within sixty-three (63) days from date of the denial. If permission to change its filing method is denied, the taxpayer is to continue to file its income tax return with the method used in the previous year. If the appeal is resolved in the taxpayer's favor, the taxpayer may file an amended

return for the year of change. ()

644. WATER'S EDGE: DISREGARDING THE ELECTION (RULE 644).

Sections 63-3027B and 63-3027C, Idaho Code. If a taxpayer fails to comply with Sections 63-3027B through 63-3027E, Idaho Code, and Rules 640 through 649 of these rules, the Tax Commission may disregard the water's edge election or recompute the water's edge combined income and apportionment factors, and assert penalties pursuant to Section 63-3046, Idaho Code, and Rules 400 through 419 of the Administration and Enforcement Rules. ()

645. WATER'S EDGE: TREATMENT OF DIVIDENDS (RULE 645).

Section 63-3027C, Idaho Code

01. Dividends Received from Payors Incorporated Outside the United States. ()

a. Dividends received from payors who are incorporated outside the fifty (50) states and District of Columbia but are not included in the combined report are treated as apportionable income. ()

b. As provided in Section 63-3027C(e)(1), Idaho Code, amounts included in income under sections 951 and 951A of the Internal Revenue Code are treated as dividends from payors outside the fifty (50) states and District of Columbia. ()

c. In order to avoid taxing income that had previously been included in Idaho apportionable income in a prior tax year, the remaining portion of the dividend that was not excluded from Idaho apportionable income under Section 63-3027C(c)(3), Idaho Code, is excluded from Idaho apportionable income if the taxpayer can prove that the income was previously included in Idaho apportionable income in a prior tax year. ()

02. Dividends Received from Payors Incorporated in the United States. Dividends received from payors who are incorporated within the fifty (50) states and District of Columbia but not included in the combined return are presumed to be apportionable income of the water's edge combined group. ()

03. Deemed Dividends from Possession Corporations. The income of a possession corporation, excluded in Section 63-3027B(a), Idaho Code, shall be included in apportionable income as a deemed dividend received from a payor incorporated outside the fifty (50) states and District of Columbia. The income of a possession corporation means taxable income greater than zero (0). Losses from possession corporations may not offset income of other possession corporations in determining the amount of deemed dividends. ()

04. Dividends from Foreign Sales Corporations. ()

a. As provided in Section 63-3027C(d)(1), Idaho Code, dividends received from a Foreign Sales Corporation (FSC) shall be eliminated in the proportion that FSC federal taxable income for the year during which the dividend was paid bears to the total FSC income before taxes for that year. For purposes of computing the dividend elimination, total FSC income before taxes means book income before the deduction of federal income taxes. ()

b. For example, a FSC paid one million dollars (\$1,000,000) in dividends during the taxable year. For that same taxable year, the FSC had federal taxable income totaling ten million dollars (\$10,000,000) and total FSC income before taxes of twenty million dollars (\$20,000,000). The dividends eliminated would be five hundred thousand dollars (\$500,000) computed as follows: $((\$10,000,000 \text{ federal taxable income} / \$20,000,000 \text{ total FSC income before taxes}) \times \$1,000,000 \text{ FSC dividend paid} = \$500,000 \text{ dividend elimination})$. ()

05. Interest Expense Offset. The interest expense offset provided in Section 63-3022M, Idaho Code, does not apply to any dividends subject to the eighty-five percent (85%) or eighty percent (80%) exclusion provided in Section 63-3027C or 63-3027E, Idaho Code. ()

646. WATER'S EDGE: DOMESTIC DISCLOSURE SPREADSHEET (RULE 646).

Section 63-3027E, Idaho Code

01. Filing Requirements. The domestic disclosure spreadsheet required by Section 63-3027E(b),

Idaho Code, must be filed no later than six (6) months after filing the original return unless the taxpayer makes a declaration to forego the filing of the spreadsheet. The declaration is made on a year by year basis. ()

02. Spreadsheet Information. The spreadsheet information must be submitted using the forms contained in the Tax Commission’s “Idaho Water’s Edge Election Pamphlet” or on identically formatted forms that disclose the same information. ()

647. -- 699. (RESERVED)

IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS

DOCKET NO. 36-0101-2200

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2023 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 or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of, or 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 63-3808, 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.

This pending rule adopts and publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 36, rules of the Idaho State Board of Tax Appeals:

IDAPA 36

- 36.01.01, *Idaho Board of Tax Appeals Rules.*

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 July 6, 2022, Idaho Administrative Bulletin, Vol. 22-7, pages 230 – 246. The change to Rule 30 is necessary to conform with the provisions of Section 63-3810A, Idaho Code, regarding third-party representation in proceedings before the Idaho Board of Tax Appeals.

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 is not anticipated to have any fiscal impact on the state general fund because the FY2023 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cindy Pollock at 208-334-3354.

DATED this 23rd day of August, 2022.

Cindy Pollock, Director
Idaho Board of Tax Appeals
1673 W. Shoreline Drive, Suite 120, Boise, ID 83702
P.O. Box 36, Boise, ID 83720-0088
Phone: 208-334-3354
Fax: 208-334-4060
Email: cindy.pollock@bta.idaho.gov

DOCKET NO. 36-0101-2200 – ADOPTION OF PENDING RULE

Substantive changes have been made to the pending rule.
Italicized red text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 22-7, July 6, 2022, pages 230 through 246.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and final approval by the 2023 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR OMNIBUS DOCKET NO. 36-0101-2200
(Only the section that has changed from the original proposed text
is printed in this Bulletin following this notice.)

[Section 030 is reprinted in its entirety]

030. REPRESENTATION AND PRACTICE BEFORE THE BOARD (RULE 30).

To the extent authorized by law the right to appear and practice before the Board is limited as follows: ()

01. Taxpayers. *A taxpayer has the right to appear or to be represented by another person of his choosing in any hearing or rehearing held on the taxpayer's appeal.* ()

02. Authorized Attorneys. Attorneys duly authorized and qualified to practice in the courts of the state of Idaho; ()

03. Public Officers. Public officers or designated representatives when representing the governmental agency; ()

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.02.03 – WATER SUPPLY BANK RULES

DOCKET NO. 37-0203-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized pursuant to §§ 42-1762, 42-1734(19), and 42-1805(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 19, 2022.

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.

The Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) (the “Agencies”) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This rule chapter was scheduled for review in 2022.

With this Notice, the Agencies propose a new chapter of water supply bank rules. The new chapter is approximately 7% shorter than the existing water supply bank rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule come through a combination of (a) removal of obsolete provisions (such as outdated “order of consideration” processes), (b) removal of unnecessary provisions (such as definitions for “year” and “person”), and (c) modifications to existing rules regulating the processing of water supply bank leases and rentals.

Pursuant to the ZBR process, this Notice represents the promulgation of a new rule chapter. As a result, the proposed rule does not contain strike-out/underline text in legislative format. The old rule has been repealed and replaced in its entirety. However, the development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2022-2023/>. At the same website, the Agencies also developed and published rulemaking support documents, which provide the Agencies’ recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

Citizens of the state of Idaho, water users, governmental agencies, and environmental groups may be interested in commenting on the proposed rule text. After consideration of public comments received in response to this Proposed Rule, the Agencies will present the final rule text to the Idaho Legislature in the late fall of 2022.

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

Idaho Code §§ 42-1761, 42-1762, and 42-1765 authorizes the Idaho Water Resource Board to generate revenue through the operation of water supply bank and rental pools and to collect “lease” and “rental” fees in association with water supply bank and rental pool transactions. This Proposed Rule does not change current water supply bank and rental pool fees.

FISCAL IMPACT STATEMENT: 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 § 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the March 2, 2022, Idaho Administrative Bulletin, [Vol. 22-3, pages 24-25](#).

INCORPORATION BY REFERENCE: Pursuant to § 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

Anyone can submit written comments regarding this proposed rule by mail to the address below or by email sent to rulesinfo@idwr.idaho.gov. The Department will consider all written comments received by the undersigned on or before October 26, 2022.

Dated this 2nd day of September 2022

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208) 287-4800

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 37-0203-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

37.02.03 – WATER SUPPLY BANK RULES

000. LEGAL AUTHORITY.

Section 42-1762, Idaho Code. ()

001. SCOPE.

These rules govern the Board’s operation and management of a Water Supply Bank as provided for in Sections 42-1761 to 42-1766, Idaho Code. These rules are to be used by the Board in considering the purchase, sale, lease or rental of natural flow or stored water, the use of any funds generated therefrom, and the appointment of local committees to facilitate the lease and rental of water from a rental pool. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho Water Resource Board. ()

02. Board's Water Supply Bank. The water exchange market operated directly by the Board to facilitate marketing of water rights. ()

03. Director. The Director of the Idaho Department of Water Resources. ()

04. Department. The Idaho Department of Water Resources. ()

05. Lease. To convey by contract a water right to the Board’s water supply bank or stored water to a rental pool operated by a local committee. ()

06. Local Committee. A committee designated by the Board to facilitate marketing of stored water by

operating a rental pool pursuant to Section 42-1765, Idaho Code. ()

07. Natural Flow. Water or the right to use water that exists in a spring, stream, river, or aquifer at a certain time and which is not the result of the storage of water flowing at a previous time. ()

08. Person. Any individual, partnership, corporation, association, governmental subdivision, or public or private organization or entity of any character. ()

09. Rent. To convey by contract a water right or stored water from the Board's water supply bank or rental pool. ()

10. Rental Pool. A market operated by a local committee for exchange of stored water. ()

11. Stored Water. Water made available by detention in surface reservoirs or storage space in a surface reservoir. ()

12. Water Right. The legal right to divert and use or to protect in place the public waters of the state of Idaho, including any storage entitlement, where such right is evidenced by a decree, a permit or license issued by the Department. ()

13. Water Supply Bank. The water exchange market operated by the Board pursuant to Sections 42-1761 through 42-1766, Idaho Code, and these rules and is a general term which includes the Board's water supply bank and rental pools. ()

011. -- 024. (RESERVED)

025. ACQUISITION OF WATER RIGHTS FOR THE BOARD'S WATER SUPPLY BANK.

01. General. The Board may purchase, lease, accept as a gift or otherwise obtain rights to natural flow or stored water and credit them to the Board's water supply bank. These water rights may then be divided or combined into more marketable blocks, if there is no injury to other right holders or enlargement of use of the water rights, and the change is in the local public interest. Any person proposing to sell or lease water rights, or to amend an existing lease contract, or to make water available through the water supply bank for the purposes of Section 42-1763B, Idaho Code, shall file a completed application with the Director on forms established by the Department and include additional information required by the Board or Director to evaluate the proposed transaction. The completed application shall state the period a water right is offered for lease, or the period that storage water will be released for fish migration purposes in accordance with Section 42-1763B, Idaho Code, and the payment terms, if any, requested by the applicant. ()

02. Application. Submitted with the completed application shall be: ()

a. Evidence that the water right has been recorded through a court decree or a permit or license issued by the Department. If the right is included in an ongoing adjudication, a copy of the claim is required; ()

b. Proof that the applicant currently owns the water right or has the owner's authorization to submit the application. If the right to the use of the water, or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, the written consent of such company, corporation, or irrigation district to the proposed sale or lease must accompany the application; ()

c. Information that the water right has not been lost through forfeiture as defined in Section 42-222(2), Idaho Code, or through abandonment; ()

d. Evidence demonstrating the relative availability of water to satisfy the water right; and ()

e. A lease application filing fee of two hundred fifty dollars (\$250) per water right up to a maximum total of five hundred dollars (\$500.00) for overlapping water rights which have a common place of use or common

diversion rate or diversion volume. ()

03. Inadequate Application. If an application is not complete, the Director will correspond with the applicant to obtain the needed information. Failure to submit the requested information within thirty (30) days will be cause for the Director to void the application. ()

04. Criteria. The board will consider the following in determining whether to accept a water right into its water supply bank: ()

a. Whether the applicant is the current owner, title holder, or contract water user of the water right offered to the Board's water supply bank or has authority to act on behalf of the owner; ()

b. Whether all necessary consents have been filed with the Board; ()

c. Whether the information available to the Board indicates that the water right may have been abandoned or forfeited; ()

d. Whether the offering price or requested rental rate is reasonable; ()

e. Whether acquisition of the water right will be contrary to the State Water Plan; ()

f. Whether the application is in the local public interest as defined in Section 42-202B, Idaho Code; ()

g. The likelihood of selling or renting the water right from the Board's water supply bank; and ()

i. Other factors as determined by the Board. ()

05. Resolution of Board. The Board may by resolution accept an application to sell or lease water rights to the Board's water supply bank, or otherwise make water available through the water supply bank. An application to lease together with the resolution accepting it becomes a lease. Water rights associated with a lease are placed into the Board's water supply bank upon adoption of the resolution. A resolution accepting an application to sell water rights to the Board's water supply bank will provide authority for the chairman of the Board to enter an agreement to purchase the water rights. The resolution may include conditions of approval, including but not limited to, the following: ()

a. A condition providing the length of time the water right will be retained in the Board's water supply bank; ()

b. A condition describing the terms for payment to the owner of the water right and the sale or rental price from the Board's water supply bank; and ()

c. Other conditions as the Board determines appropriate, including a condition recognizing that water is available through the water supply bank pursuant to the provisions of Section 42-1763B, Idaho Code, for purposes of fish migration. ()

06. Placement of Water Right. Effect of placement of a water right into the Board's water supply bank. ()

a. Upon acceptance of a water right into the Board's water supply bank, the owner of the water right is not authorized to continue the diversion and use of the right while it is in the Board's water supply bank. ()

b. A water right which has been accepted shall remain in the Board's water supply bank for the period designated by the Board unless removed by resolution of the Board. ()

c. The owner of the water right shall remain responsible to take actions required to claim the water right in an adjudication or other legal action concerning the water right and to pay taxes, fees, or assessments related

to the water right. ()

d. The forfeiture provisions of Section 42-222(2), Idaho Code are tolled during the time the water right is in the Board's water supply bank, pursuant to the provisions of Section 42-1764, Idaho Code. ()

026. -- 029. (RESERVED)

030. SALE OR RENTAL OF WATER RIGHTS FROM THE BOARD'S WATER SUPPLY BANK.

01. General. The Board may in its discretion initiate the process to sell or rent water rights from the Board's water supply bank. An application to rent, or to amend an existing rental, shall be on forms established by the Director and shall include such additional information as required by the Board or Director to evaluate the proposed rental. The sale or rental price shall be the price, if any, as determined by the Board. ()

02. Application. Submitted with the completed application shall be: ()

a. Evidence of authority or permission to use water at the proposed place of use, to divert water at the proposed point of diversion, and to deliver water through the proposed conveyance system, including a canal, lateral, or ditch, for delivery of water; ()

b. The proposed beneficial use of water and the quantity of water to be diverted during the rental, including the number of acres to be irrigated if the application is for irrigation; ()

c. A map of sufficient scale to show the proposed points of diversion and proposed places of use, including the number of acres to be irrigated if the application is for irrigation; and ()

d. If the rental application proposes to change the nature of use of a specific water right, evidence sufficient to establish historical consumptive use, as defined in Section 42-202B, Idaho Code, of the right proposed to be rented. ()

03. Inadequate Application. If an application is not complete, the Director will correspond with the applicant to obtain the needed information. Failure to submit the requested information within thirty (30) days will be cause for the Director to void the application. ()

04. Notice. The Director may give notice of an intended rental as he deems necessary, provided that prior to approving any application for purchase, or for rental for a period of more than five (5) years, he shall give notice as required in Section 42-222(1), Idaho Code. ()

05. Consideration. All applications received on or prior to November 1 of the calendar year prior to the proposed rental start date will be considered as having been received at the same time. Applications received after November 1 may be considered only if sufficient water remains in the Board's water supply bank. ()

06. Application Evaluation Criteria. ()

a. The Director will evaluate applications using the following: ()

i. Whether the proposal would constitute an enlargement of the water right; ()

ii. Whether the water will be put to a beneficial use; ()

iii. Whether the water supply available from applicable rights in the Board's water supply bank is sufficient for the use intended; ()

iv. Whether the proposal is in the local public interest; and ()

v. Other factors as determined by the Director or the Board. ()

b. The Department may request additional information from a lessor or rental applicant as needed to evaluate the proposed rental relative to the criteria stated in this section. If the information requested from a lessor is not received within thirty (30) days, the Department may consider a different lease to satisfy the proposed rental. If the information requested from a rental applicant is not received within thirty (30) days, the Director may void the rental application. ()

c. For applications submitted pursuant to Section 42-1763B, Idaho Code, the Director will only make an evaluation as to whether the proposed use of water will cause injury to other water rights. ()

d. The Director may defer the evaluation of potential injury to other water rights conditioned upon the right of any affected water right holder to petition the Director pursuant to Section 42-1766, Idaho Code, to revoke or modify the rental approval upon a showing of injury. ()

e. The Director shall consider in determining whether to approve a rental of water for use outside of the state of Idaho those factors enumerated in Section 42-401(3), Idaho Code, except that this evaluation is not required for applications submitted pursuant to Section 42-1763B, Idaho Code. ()

07. Authorized to Rent. The Director is authorized to rent water rights offered by the Board from the Board's water supply bank for a period up to five (5) years, but shall submit applications for purchase, or rental for a period of more than five (5) years to the Board for action. The Director will advise the Board on applications which require Board approval under Rule Subsection 025.06. The Director will advise whether he can approve the application in whole or in part or with conditions to comply with Section 42-1763, Idaho Code. ()

08. Board Review. The Board will review applications for purchase, or which propose the rental of water rights for a duration of more than five (5) years, and may approve, approve with conditions, or reject the applications as the Board determines to best meet the purposes of Section 42-1761, Idaho Code and promote the interest of the people of the state of Idaho. ()

031. -- 034. (RESERVED)

035. HANDLING OF MONEY ASSOCIATED WITH THE BOARD'S WATER SUPPLY BANK.

Fees collected pursuant to Rules 025 and 030 from the acquisition, sale, or rental of water rights for or from the Board's water supply bank do not apply to rental pools described in Rule 040 and will be handled as follows: ()

01. Credited Amount. Ten percent (10%) of the gross amount received from the sale or rental of a water right from the Board's water supply bank and the entire lease application fee received pursuant to Rule 025 shall be credited to the Water Administration Account created by Section 42-238a, Idaho Code, or to the federal grant fund if the payment is received from a federal agency, for administrative costs of operating the Water Supply Bank. ()

02. Excess Funds. Any funds in excess of the amount needed to compensate the owner of the water right in accordance with the resolution accepting the water right into the Board's water supply bank and the administrative charge of Rule Subsection 035.01.a shall be credited to the Water Management Account created by Section 42-1760, Idaho Code, for use by the Board. ()

036. -- 039. (RESERVED)

040. APPOINTMENT OF LOCAL RENTAL POOL COMMITTEES.

01. Board Meetings for Committee Appointments. The Board may at any regular or special meeting consider appointing an entity to serve as a local committee to facilitate the lease and rental of stored water. At least ten (10) days prior to the meeting, the entity seeking appointment shall provide to the Director information concerning the organization of the entity, a listing of its officers, a copy of its bylaws and procedures, if applicable, a copy of the proposed local committee procedures, pursuant to which the local committee would facilitate the lease and rental of stored water, together with a copy of each general lease and rental form proposed to be used by the local committee. The local committee procedures must be approved by the Board and provide for the following: ()

- a. Determination of priority among competing applicants to lease stored water to the rental pool and to rent stored water from the rental pool; ()
- b. Determination of the reimbursement schedule for those leasing stored water into the rental pool; ()
- c. Determination of the rental price charge to those renting stored water from the rental pool; ()
- d. Determination of the administrative charge to be assessed by the local committee; ()
- e. Allocation of stored water leased to the bank but not rented; ()
- f. Notification of the Department and the watermaster of any rentals where stored water will be moved from the place of use authorized by the permit, license, or decree establishing the stored water right; ()
- g. Submittal of applications to rent water from the rental pool for more than five (5) years to the Board for review and approval as a condition of approval by the local committee; ()
- h. Prevention of injury to other water rights; ()
- i. Protection of the local public interest, except for applications submitted pursuant to Section 42-1763B, Idaho Code; ()
- j. Consistency with the conservation of water resources within the state of Idaho, except for applications submitted pursuant to Section 42-1763B, Idaho Code; and ()
- k. Management of rental pool funds as public funds pursuant to the Public Depository Law, Chapter 1, Title 57, Idaho Code. ()

02. Local Committee Procedures. The local committee procedures shall provide that a surcharge of ten percent (10%) of the rental fee charged per acre foot of stored water rented from the rental pool shall be assessed and credited to the revolving development account and the water management account established in Sections 42-1752 and 42-1760, Idaho Code, in such proportion as the Board in its discretion shall determine. Such moneys, together with moneys accruing to or earned thereon, shall be set aside, and made available until expended, to be used by the Board for the purposes of Section 42-1761, Idaho Code, unless the surcharge is prohibited by statute, compact or inter-governmental agreement. ()

03. Review by Director. The Director will review the local committee procedures and submit them along with the Director's recommendation to the Board. The lease and rental form must receive the Director's approval. The Board may designate the applying entity as the local committee for a period not to exceed five (5) years. A Certificate of Appointment will be issued by the Board. The Board may extend the appointment for additional periods up to five (5) years, upon written request of the local committee. The Board may revoke a designation upon request of the local committee, or after a hearing pursuant to the promulgated Rules of Practice and Procedure of the Board, if the Board determines that the local committee is no longer serving a necessary purpose or is not abiding by its own approved procedures, these rules or applicable statutes. ()

04. Annual Report. The local committee shall report annually on the activity of the rental pool on forms provided by the Board. ()

05. Submission of Amendments to Procedures to Board. Amendments to the approved procedures of an appointed local committee which change the amount charged for the rental of stored water shall be submitted to the Board by April 1st of any year. The amendment will be considered approved by the Board unless specifically disapproved at the first regular Board meeting following the amendment action of the local committee. The Board may, upon good cause being determined by the Board, specifically approve of amendments submitted after April 1 of any year. ()

041. -- 999. (RESERVED)

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.04 – DRILLING FOR GEOTHERMAL RESOURCES RULES

DOCKET NO. 37-0304-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized pursuant to §§ 42-1734(19), 42-1805(8), and 42-4010, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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.

The Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) (the “Agencies”) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This rule chapter was scheduled for review in 2022.

With this Notice, the Agencies propose a new chapter of drilling for geothermal resources rules. The new chapter is approximately 23% shorter than the existing drilling for geothermal resources rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule come through a combination of (a) removal of obsolete provisions (such as the classification and treatment of “confidential” agency well construction records), (b) removal of unnecessary provisions (such as the definition and use of the term “production well”), and (c) modifications to existing rules regulating the processing of permits for the drilling of wells to use geothermal resources.

Pursuant to the ZBR process, this Notice represents the promulgation of a new rule chapter. As a result, the proposed rule does not contain strike-out/underline text in legislative format. The old rule has been repealed and replaced in its entirety. However, the development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2022-2023/>. At the same website, the Agencies also developed and published rulemaking support documents, which provide the Agencies’ recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

Citizens of the state of Idaho, water users, governmental agencies, and environmental groups may be interested in commenting on the proposed rule text. After consideration of public comments received in response to this Proposed Rule, the Agencies will present the final rule text to the Idaho Legislature in the late fall of 2022.

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

IDAPA 37.03.04 governs the regulation of geothermal resource exploration and development and ensures that such activities occur in the public interest. The Rule promotes Idaho’s geothermal policy, “to maximize the benefits to the entire state which may be derived from the utilization of our geothermal resources, while minimizing the detriments and costs of all kinds which could result from their utilization”. The Rule also requires fees for geothermal exploratory wells, production wells, injection wells, and amendments to permits, as set forth in Idaho Code §§ 42-4003 and 42-4011.

FISCAL IMPACT STATEMENT: 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 § 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the March 2, 2022, Idaho Administrative Bulletin, [Vol. 22-3, pages 26-27](#).

INCORPORATION BY REFERENCE: Pursuant to § 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

Anyone can submit written comments regarding this proposed rule by mail to the address below or by email sent to rulesinfo@idwr.idaho.gov. The Department will consider all written comments received by the undersigned on or before October 26, 2022.

Dated this 2nd day of September 2022

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208) 287-4800

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 37-0304-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

37.03.04 – DRILLING FOR GEOTHERMAL RESOURCES RULES

000. LEGAL AUTHORITY (RULE 0).
Section 42-4001 through Section 42-4015, Idaho Code. ()

001. TITLE AND SCOPE (RULE 1).
These rules establish the framework for the drilling, operation, maintenance, and abandonment of all geothermal wells in the state. ()

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
For these rules, the following definitions apply. ()

01. Applicant. Any person applying to the Department of Water Resources for a permit for the construction and operation of any well or injection well. ()

02. Board. The Idaho Water Resource Board. ()

03. BOPE. An abbreviation for Blow Out Prevention Equipment which is designed to be attached to the casing in a geothermal well to prevent a blow out of the drilling mud. ()

04. Completion. A well is completed thirty (30) days after drilling operations have ceased unless a suspension of operation is approved by the Director, or thirty (30) days after it has commenced producing a geothermal resource, whichever occurs first, unless drilling operations are resumed before the end of the thirty (30) day period or at the end of the suspension. ()

05. Conductor Pipe. The first and largest diameter string of casing to be installed in the well. This casing extends from land surface to a depth great enough to keep surface waters from entering and loose earth from falling in the hole and to provide anchorage for blow out prevention equipment prior to setting surface casing. ()

06. Department. The Idaho Department of Water Resources. ()

07. Director. The Director of the Idaho Department of Water Resources. ()

08. Drilling Logs. The recorded description of the lithologic sequence encountered in drilling a well. ()

09. Drilling Operations. The actual drilling, redrilling, or recompletion of the well for production or injection including the running and cementing of casing and the installation of well head equipment. Drilling operations do not include perforating, logging, and related operations after the casing has been cemented. ()

10. Exploratory Well. A well drilled for the discovery or evaluation of geothermal resources. ()

11. Geothermal Area. The same general land area which in its subsurface is underlain or reasonably appears to be underlain by geothermal resources from or in a single reservoir, pool, or other source or interrelated sources, as such area or areas may be designated from time to time by the Director. ()

12. Geothermal Field. An area which contains a well or wells capable of commercial production of geothermal resources. ()

13. Geothermal Resource. The natural heat energy of the earth, the energy in whatever form which may be found in any position and at any depth below the surface of the earth, present in, resulting from, or created by, or which may be extracted from such natural heat and all minerals in solution or other products obtained from the material medium of any geothermal resource. Groundwater having a temperature of two hundred twelve (212) degrees Fahrenheit or more in the bottom of a well shall be classified as a geothermal resource. Geothermal resources are found and hereby declared sui generis, being neither a mineral resource nor a water resource but they are also found and hereby declared closely related to and possibly affecting and affected by water and mineral resources in many instances. ()

14. Injection Well. Any special well, converted producing well, or reactivated or converted abandoned well employed for injecting material into a geothermal area or adjacent area to maintain pressures in a geothermal reservoir, pool, or other source, or to provide new material or to serve as a material medium therein, or for reinjecting any material medium or the residue thereof, or any by-product of geothermal resource exploration or development into the earth. ()

15. Intermediate Casing. The casing installed within the well to seal out brackish water, caving zones, etc., below the bottom of the surface casing. Such casings may either be lapped into the surface casing or extend to land surface. ()

16. Material Medium. Any substance including, but not limited to, naturally heated fluids, brines, associated gasses and steam in whatever form, found at any depth and in any position below the surface of the earth, which contains or transmits the natural heat energy of the earth, but excluding petroleum, oil, hydrocarbon gas, or other hydrocarbon substances. ()

17. **Notice of Intent (NOI).** A written statement to the Director that the applicant intends to do work. ()
18. **Observation Well.** A small diameter well drilled strictly for monitoring purposes. In no case shall an observation well be completed for production of geothermal resources or for use as an injection well. ()
19. **Operator.** Any person drilling, maintaining, operating, pumping, or in control of any well. The term operator also includes owner when any well is or has been or is about to be operated by or under the direction of the owner. ()
20. **Owner.** The owner of the geothermal lease or well and includes operator when any well is operated or has been operated or is about to be operated by any person other than the owner. ()
21. **Permit.** A permit issued pursuant to these rules for the construction and operation of any well or injection well. ()
22. **Person.** Any individual natural person, general or limited partnership, joint venture, association, cooperative organization, corporation, whether domestic or foreign, agency or subdivision of this or any other state or municipal or quasi-municipal entity whether or not it is incorporated. ()
23. **Production Casing.** The casing or tubing through which a geothermal resource is produced. This casing extends from the producing zone to land surface. ()
24. **Surface Casing.** The first casing run after the conductor pipe to anchor blow out prevention equipment and to seal out all existing groundwater zones. ()
25. **Suspension of Operations.** The cessation of drilling, redrilling, or alteration of casing before the well is officially abandoned or completed. All suspensions must be authorized by the Director. ()
26. **Waste.** Any physical waste including, but not limited to: ()
- a. Underground waste resulting from inefficient, excessive, or improper use, or dissipation of geothermal energy, or of any geothermal resource pool, reservoir, or other source; or the locating, spacing, constructing, equipping, operating, or producing of any well in a manner which results, or tends to result in reducing the quantity of geothermal energy to be recovered from any geothermal area in the state; ()
- b. The inefficient above-ground transporting and storage of geothermal energy; and the locating, spacing, equipping, operating, or producing of any well or injection well in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of geothermal energy; ()
- c. The escape into the open air from a well of steam or hot water more than what is reasonably necessary in the efficient development or production of a well. ()
27. **Well or Geothermal Resource Well.** Any excavation or other alteration in the earth's surface or crust by means of which the energy of any geothermal resource or its material medium is sought or obtained. ()

011. -- 024. (RESERVED)

025. **DRILLING (RULE 25).**

01. **General.** All wells shall be drilled to protect or minimize damage to the environment, waters usable for all beneficial purposes, geothermal resources, life, health, or property. ()
02. **Permits and Notices.** ()
- a. **Permit to Drill for Geothermal Resources.** Any person, owner, or operator who proposes to construct or alter a well to produce or explore for geothermal resources or to construct or alter an injection well shall

first apply to the Director for permit. If the owner or operator plans to deepen, redrill, plug, or perform any operation that will in any manner alter the well, an application shall be filed with the Director and written approval must be received prior to beginning work. Application for permit shall be on a form approved by the Department. ()

b. Application for Permit to Convert to Injection. If the owner plans to convert an existing geothermal well into an injection well with no change of mechanical condition, an application for permit shall be filed with the Director and written approval must be received prior to beginning injection. Application for permit shall be made on a form approved by the Department. ()

c. Amendment of Permit. No well may be owned or operated by any person whose name does not appear on the permit or permit application and no changes in departure from the procedures, location, data, or persons specified on the face of a permit shall be allowed until an amendment to such permit is approved by the Director. Application for amendment shall be made on a form approved by the Department. ()

d. Notice to Other Agencies. Notice of applications, permits, orders, or other actions received or issued by the Director may be given to any other agency or entity which may have information, comments, or jurisdiction over the activity involved. The Director may execute a memorandum of understanding with other agencies to eliminate duplication of applications or other efforts. ()

e. No application shall be accepted by the Director until the filing fee required by § 42-4003(5), Idaho Code has been deposited with the Director. ()

03. Bonds. ()

a. The Director shall require every operator or owner who engages in the construction, alteration, testing, operation, or abandonment of the well to provide to the Director evidence of good and sufficient security in the form and amounts required by Idaho Code § 42-4005(f). ()

b. Bonds remain in force for the life of the well or wells and may not be released until the well or wells are properly abandoned, or another valid bond is substituted therefor. Any person who acquires the ownership or operation of any well or wells shall within thirty (30) days after acquisition provide to the Director evidence of good and sufficient security in the form and amounts required by Idaho Code § 42-4005(f). ()

04. Well Spacing. ()

a. Any well drilled for the discovery and production of geothermal resources or as an injection well shall be located more than one hundred (100) feet from and within the outer boundary of the parcel of land on which the well is situated, or more than one hundred (100) feet from a public road, street, or highway dedicated prior to the commencement of drilling. This requirement may be modified or waived by the Director upon written request. ()

b. For several contiguous parcels of land in one or different ownerships that are operated as a single geothermal field, the term outer boundary line means the outer boundary line of the land included in the field. In determining the contiguity of any such parcels of land, no street, road, or alley lying within the lease or field shall be determined to interrupt such contiguity. ()

c. The Director shall approve the proposed well spacing programs or prescribe such modifications to the programs as he deems necessary for proper development giving consideration to such factors as, but not limited to, topographic characteristics of the area, hydrologic, geologic, and reservoir characteristics of the area, the number of wells that can be economically drilled to provide the necessary volume of geothermal resources for the intended use, minimizing well interference, unreasonable interference with multiple use of lands, and protection of the environment. ()

d. Directional Drilling. Where the surface of the parcel of land containing one acre or more is unavailable for drilling, the surface well location may be located upon property which may or may not be contiguous. Such surface well locations shall not be less than twenty-five (25) feet from the outer boundary of the parcel on which it is located, nor less than twenty-five (25) feet from an existing street or road. The production or injection interval of

the well shall not be less than one hundred (100) feet from the outer boundary of the parcel into which it is drilled. Directional surveys must be filed with the Director for all wells directionally drilled. ()

05. Casing. ()

a. General. All wells shall be cased in such a manner as to protect or minimize damage to the environment, usable ground waters, geothermal resources, life, health, and property. The permanent well head completion equipment shall be attached to the production casing or to the intermediate casing if production casing does not reach the surface. No permanent well head equipment may be attached to any conductor or surface casing alone. The specification for casing strength shall be determined by the Director on a well-to-well basis. All casing reaching the surface shall provide adequate anchorage for blow out prevention equipment, hole pressure control, and protection for natural resources. Sufficient casing shall be run to reach a depth below all known or reasonably estimated groundwater levels to prevent blow outs or uncontrolled flows. The following casing requirements are general but should be used as guidelines in submitting applications for permit to drill. The casing schedule may consist of multiple casing strings (i.e., surface casing, intermediate casing, production casing) provided drilling depth does not exceed ten times the depth of last cemented casing. ()

b. Conductor Pipe. A minimum of forty (40) feet of conductor pipe shall be installed. The annular space is to be cemented solid to the surface. A twenty-four (24) hour cure period for the grout must be allowed prior to drilling out the shoe unless additives sufficient, as determined by the Director, are used to obtain early strength. An annular blow out preventer shall be installed on all exploratory wells and on development wells when deemed necessary by the Department. ()

c. Surface Casing. The surface casing hole shall be logged with an induction electrical log or equivalent or gamma-neutron log before running casing. This requirement may be waived by the Director. Permission to waive this requirement must be granted by the Director in writing prior to running surface casing. This casing shall provide for control of formation fluids, protection of usable groundwater, and for adequate anchorage for blow out prevention equipment. All surface casing shall be cemented solid to the surface. A twenty-four (24) hour cure period shall be allowed prior to drilling out the shoe of the surface casing unless additives sufficient, as determined by the Director, are used to obtain early strength. ()

i. In areas of known high formation pressure, surface casing shall be set at the depth determined by the Director after a study of geologic conditions in the area. ()

ii. In areas where subsurface geological conditions are variable or unknown, surface casing shall be in accordance with specifications as outlined in a. above. The casing must be seated through a sufficient series of low permeability, competent lithologic units such as claystone, siltstone, basalt, etc., to ensure a solid anchor for blow out prevention equipment and to protect usable groundwater from contamination. Additional casing may be required if the first string has not been cemented through a sufficient series of such beds, or a rapidly increasing thermal gradient or formation pressures are encountered. ()

iii. The temperature of the return drilling mud shall be monitored continuously during the drilling of the surface casing hole. Either a continuous temperature-monitoring device shall be installed and maintained in a working condition or the temperature shall be read manually. In either case, the return temperature shall be entered into the logbook on thirty (30) foot increments. ()

iv. BOPE capable of shutting in the well during any operation shall be installed on the surface casing and maintained ready for use at all times. BOPE pressure tests shall be performed by the operator for Department personnel on all exploratory wells prior to drilling out the shoe of the surface casing. The decision to perform BOPE pressure tests on other types of wells shall be made on a well-to-well basis by the Director. The Director must be notified five (5) days in advance of a scheduled pressure test. Permission to proceed with the test sooner may be given verbally by the Director upon request by the operator. ()

d. Intermediate Casing. Intermediate casing shall be required for protection against anomalous pressure zones, cave-ins, washouts, abnormal temperature zones, uncontrollable lost circulation zones or other drilling hazards. Intermediate casing strings when installed shall be cemented solidly to the surface or to the top of the casing. ()

e. Production Casing. Production casing may be set above or through the producing or injection zone and cemented either below or just above the objective zones. Sufficient cement shall be used to exclude overlying formation fluids from the geothermal zone, to segregate zones, and to prevent movement of fluids behind the casing into possible fresh groundwater zones. Production casing shall either be cemented solid to the surface or lapped into the intermediate casing if run. If the production casing is lapped into an intermediate casing, the casing overlap shall be at least fifty (50) feet, the lap shall be cemented solid, and the lap shall be pressure tested to ensure its integrity. ()

06. Electric Logging. All wells except observation wells shall be logged with an induction electrical log or equivalent or gamma-neutron log from the bottom of the hole to the bottom of the conductor pipe. This requirement may be modified or waived by the Director upon written request. ()

026. ALTERNATIVE METHODS (RULE 26).

To accommodate the use of advanced or new technology, and in consideration of methods not specifically addressed in these rules, the Director may consider specific proposals for alternative methods of drilling and constructing geothermal resource wells. ()

027. -- 029. (RESERVED)

030. RECORDS (RULE 30).

01. General. The owner of any well shall keep or cause to be kept a careful and accurate log, core record, temperature logs, and history of the drilling of the well. These records shall be kept in the nearest office of the owner or at the well site and together with all other reports of the owner and operator regarding the well shall be subject to inspection by the Director during business hours. All records unless otherwise specified must be filed with the Director within thirty (30) days of completion of the well. ()

02. Records to Be Filed with the Director. ()

a. Drilling Logs and Core Record. Include the lithologic characteristics and depths of formations encountered, the depth and temperatures of water-bearing and steam-bearing strata, the temperatures, chemical compositions and other chemical and physical characteristics of fluids encountered as ascertained. The core record shall show the depth, lithologic character, and fluid content of the obtained cores. ()

b. Well History. The well history shall describe in detail all significant daily operations carried out and equipment used during all phases of drilling, testing, completion, and abandonment of any well. ()

c. Well Summary Report. The well summary report shall accompany the core record and well history reports. It is designed to show data pertinent to the condition of a well at the time of completion of work done. ()

d. Production Records. The owner of any well producing geothermal resources shall file with the Director on or before the 20th day of each month for the preceding month a statement of production utilized in such a form as the Director may designate. Copies of monthly geothermal energy report forms are available from the Director; however, production data can be submitted on non-department forms if previously approved by the Director. ()

e. Injection Records. The owner of any well injecting geothermal fluids or wastewater for any purpose shall file with the Director on or before the twentieth day of each month for the preceding month a report of the injection in such form as the Director may designate. Copies of monthly injection report forms are available from the Director. Injection data may be submitted on non-department forms if previously approved by the Director. ()

f. Electric Logs and Directional Surveys. When conducted, electric logs and directional surveys shall be filed with the Director within sixty (60) days of completion, cessation of drilling operations, excluding any approved suspension of operations, or abandonment of any well. Like copies shall be filed upon recompletion of any

well. Upon a showing of hardship, the Director may extend the time within which to comply for a period not to exceed six (6) additional months. ()

031. -- 034. (RESERVED)

035. BLOW OUT PREVENTION (RULE 35).

01. BOPE. Must be capable of controlling the well under known and unknown reservoir conditions. ()

a. If reservoir conditions are unknown, data loggers shall be installed to continuously monitor and record the following conditions until the well has been drilled to total depth. ()

i. Drilling mud temperature (in and out). ()

ii. Drilling mud pit level. ()

iii. Drilling mud pump volume. ()

iv. Drilling mud weight. ()

v. Drilling rate. ()

vi. Hydrocarbon and hydrogen sulfide gas volume (with alarm). ()

b. Annular BOPE with a minimum working pressure of one thousand (1,000) PSI shall be installed on the surface casing. If unusual conditions are anticipated, a BOPE may be required on the conductor pipe. ()

c. If drilling mud temperature out reaches one hundred twenty-five (125) Degrees C (Celsius), drilling operations shall cease, drilling mud circulation will continue and the Director must be notified immediately. The operator must obtain the Director's approval of his proposed course of action prior to resuming drilling operations. ()

d. When reservoir conditions are known, a gate valve with a minimum working pressure rating of three hundred (300) PSI may be installed on the well head. ()

e. When reservoir conditions are known, the temperature of the return mud shall be monitored continuously. Either a continuous temperature monitoring device shall be installed and maintained in working condition or the temperature shall be read manually. In either case, return mud temperatures shall be entered into the logbook for each thirty (30) feet of depth drilled. ()

f. The Director may approve BOPE modifications upon written request by the applicant. BOPE requirements under these rules may be modified by the Director depending upon the knowledge of the area. Such requirements may be set forth on the approved application for permit to drill a geothermal well or made in the field by Department personnel monitoring construction of the well. ()

036. -- 039. (RESERVED)

040. INJECTION WELLS (RULE 40).

01. Construction. The owner of a proposed injection well or series of injection wells shall provide the Director with such information he deems necessary for evaluation of the impact of such injection on the geothermal reservoir and other natural resources. Such information shall include existing reservoir conditions, method of injection, source of injection fluid, estimates of daily amount of material medium to be injected, zones or formations affected, and analysis of fluid to be injected and of the fluid from the intended zone of the injection. Such information shall be on a form approved or provided by the Director. ()

02. Surveillance. ()

a. When an owner proposes to drill or modify an injection well or convert a producing or idle well to an injection well, he shall be required to demonstrate to the Director by means of a test that the casing has complete integrity. This test shall be conducted in a method approved by the Director. ()

b. To establish the integrity of the annular cement above the shoe of the casing, the owner shall make sufficient surveys within thirty (30) days after injection is started into a well to prove that all the injected fluid is confined to the intended zone of injection. Thereafter, such surveys shall be made at least every two (2) years or more often if necessary. The Director shall be notified forty-eight (48) hours in advance of such surveys in order that a representative may be present if deemed necessary. If in the Director's opinion such tests are not necessary, he may grant a waiver excepting the operator from such tests. ()

c. Department personnel may inspect the well site periodically after the well has been placed on injection. The Director may notify the operator or owner if any remediation work is necessary. Any remediation work must be performed within ninety (90) days of notification by the Director. The Director may rescind approval of the injection well for failure to perform necessary work. ()

041. -- 044. (RESERVED)

045. ABANDONMENT (RULE 45).

01. Objectives. The objectives of abandonment are to block interzonal migration of fluids to: ()

a. Prevent contamination of fresh water or other natural resources; ()

b. Prevent damage to geothermal reservoirs; ()

c. Prevent loss of reservoir energy; and ()

d. Protect life, health, environment, and property. ()

02. General Requirements. The following are general requirements which are subject to review and modification for individual wells or field conditions. ()

a. A NOI to abandon geothermal resource wells is required to be filed with the Director five (5) days prior to beginning abandonment procedures. A permit to abandon may be given verbally by the Director provided the operator submits a written abandonment request on a form approved by the Director within twenty-four (24) hours of the verbal request. ()

b. All wells abandoned shall be monumented with four (4) inch diameter pipe ten (10) feet in length of which four (4) feet shall be above ground. The remainder shall be embedded in concrete. The name, number, and location of the well shall be shown on the monument. Alternate methods of monumentation may be approved by the Director where land surface use indicates the above-described method is not satisfactory. ()

c. Heavy drilling fluid or other seal material approved by the Director shall be used to replace any water in the hole and to fill all portions of the hole not plugged with cement. ()

d. All cement plugs with a possible exception of the surface plug shall be pumped into the hole from the bottom up through drill pipe or tubing. ()

e. All open annuli shall be filled with cement to the surface. ()

f. A minimum of one hundred (100) feet of cement shall be emplaced straddling the interface or transition zone at the base of groundwater aquifers. ()

g. One hundred (100) feet of cement shall straddle the shoe plug on all casings including conductor

pipe. ()

h. A surface plug of either neat cement or cement shall be emplaced from the top of the casing to at least fifty (50) feet below the top of the casing. ()

i. All casing shall be cut off at least five (5) feet below land surface. ()

j. Cement plugs shall extend at least fifty (50) feet over the top of any liner installed in the well. ()

k. Other abandonment procedures may be approved by the Director if the owner can demonstrate that the geothermal resource, groundwaters, and other natural resources will be protected. Such approval must be given in writing by the Director prior to the beginning of any abandonment procedures. ()

l. An abandonment report must be submitted to the Department within five (5) days after the completion of the abandonment. ()

046. -- 049. (RESERVED)

050. MAINTENANCE (RULE 50).

01. General. All well heads, separators, pumps, mufflers, manifolds, valves, pipelines, and other equipment used to produce geothermal resources shall be maintained in good condition in order to prevent loss of or damage to life, health, property, and natural resources. ()

02. Corrosion. All surface well head equipment and pipelines and subsurface casing and tubing will be subject to periodic corrosion surveillance to safeguard health, life, property, and natural resources. ()

03. Tests. The Director may require such tests or remediation necessary to prevent damage to life, health, property, and to protect geothermal and groundwater resources. Such tests may include, but are not limited to, casing tests, cementing tests, and equipment tests. ()

051. -- 059. (RESERVED)

060. HEARINGS ON DENIED, LIMITED, OR CONDITIONED PERMIT OR OTHER DECISIONS OF THE DIRECTOR (RULE 60).

Pursuant to Idaho Code §§ 42-4004(c) and 42-4005(d), any applicant who is granted a limited or conditioned permit, or who is denied a permit or any person aggrieved by a decision of the Director may seek a hearing on said action of the Director by serving on the Director written notice and request for a hearing before the Board within thirty (30) days of service of the Director's decision. Said hearing will be set, conducted, and notice given as set forth in the Rules promulgated by the Board under the provisions of Title 67, Chapter 52, Idaho Code. Any applicant may appeal the decision of the Board to the District Court within thirty (30) days of service of the decision. ()

061. -- 064. (RESERVED)

065. ENFORCEMENT (RULE 65).

01. Enforcement by Director. When the Director determines that any person is in substantial violation of any provisions of the Geothermal Resources Act (Chapter 40, Title 42, Idaho Code) or of any rule, permit, certificate, condition of approval or order issued or promulgated pursuant to the Geothermal Resources Act, the Director may commence an administrative enforcement action by issuing a written notice of violation in accordance with the provisions of Idaho Code §42-1701B. The Director may enforce any provision of the Geothermal Resources Act or any order or regulation issued or adopted pursuant thereto by an appropriate action in the district court. The Director may bring action in the District Court to enjoin noncompliance with any provision of this act. ()

066. --999. (RESERVED)

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.05 – MINE TAILINGS IMPOUNDMENT STRUCTURES RULES

DOCKET NO. 37-0305-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized pursuant to §§ 42-1710 and 42-1714, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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.

The Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) (the “Agencies”) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This rule chapter was scheduled for review in 2022.

With this Notice, the Agencies propose a new chapter of mine tailings impoundment structures rules. The new chapter is approximately the same length as the existing mine tailings impoundment structures rules. Only one change from the existing rule is proposed in this rule. The change addresses fixing an inconsistency between current statutory requirements and outdated requirements in the old rule concerning the inspection intervals of mine tailings impoundment structures. Rules 10.13 and 40.01 were updated to reconcile the inconsistency.

Pursuant to the ZBR process, this Notice represents the promulgation of a new rule chapter. As a result, the proposed rule does not contain strike-out/underline text in legislative format. The old rule has been repealed and replaced in its entirety. However, the development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2022-2023/>. At the same website, the Agencies also developed and published rulemaking support documents, which provide the Agencies’ recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

Citizens of the state of Idaho, water users, governmental agencies, and environmental groups may be interested in commenting on the proposed rule text. After consideration of public comments received in response to this Proposed Rule, the Agencies will present the final rule text to the Idaho Legislature in the late fall of 2022.

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

IDAPA 37.03.05 establishes acceptable construction standards and governs IDWR’s design and technical review of mine tailing and water impoundment structures. The Rule also supports the collection of a fee to review plans, drawings, and specifications pertaining to any mine tailings impoundment structure.

FISCAL IMPACT STATEMENT: 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 § 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, page 84-85](#).

INCORPORATION BY REFERENCE: Pursuant to § 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

Anyone can submit written comments regarding this proposed rule by mail to the address below or by email sent to rulesinfo@idwr.idaho.gov. The Department will consider all written comments received by the undersigned on or before October 26, 2022.

Dated this 2nd day of September 2022

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208) 287-4800

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 37-0305-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)**

37.03.05 – MINE TAILINGS IMPOUNDMENT STRUCTURES RULES

000. LEGAL AUTHORITY (RULE 0).

These rules are adopted pursuant to Section 42-1714, Idaho Code. ()

001. SCOPE (RULE 1).

01. Scope. ()

a. These rules and standards will only apply to structures upon which construction, lift construction, enlargement, or alteration is underway on or after July 1, 1978. Under no circumstances shall these rules be construed to deprive or limit the Director of the Department of Water Resources of any exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount or character of data, or information which may be required by the Director from any owner of a mine tailings impoundment structure for the proper administration of the law. ()

b. The design requirements listed are intended as a guide to establish acceptable standards of construction. They are not intended to restrict the application of other sound design principles by engineers. The Director will evaluate any deviation from the standards hereinafter stated as they pertain to the safety of any given mine tailings impoundment structure. Engineers are encouraged to submit new ideas which will advance the art and provide for the public safety. ()

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

Unless the context otherwise requires, the following definitions govern these rules. ()

- 01. Board.** The Idaho Water Resource Board. ()
- 02. Director.** The Director of the Idaho Department of Water Resources. ()
- 03. Department.** The Idaho Department of Water Resources. ()
- 04. Mine Tailings Impoundment Structure.** Any artificial embankment which is or will be more than thirty (30) feet in height measured from the lowest elevation of the toe to the maximum crest elevation constructed for the purpose of storing mine tailings slurry. ()
- 05. Mine Tailings Slurry.** All slurry wastes from a mineral processing or mining operation. ()
- 06. Mine Tailings Storage Capacity.** The total storage volume of the impoundment when filled with tailings to the maximum approved design storage elevation. ()
- 07. Borrowed Fill Embankment.** Any embankment constructed of borrowed earth materials and which is designed for construction by conventional earth moving equipment. ()
- 08. Reservoir.** Any basin which contains or will contain the material impounded by the mine tailings impoundment structure. ()
- 09. Owner.** Includes any of the following who own, control, operate, maintain, manage, or propose to construct a mine tailings impoundment structure or reservoir. ()
- a.** The state of Idaho and any of its departments, agencies, institutions and political subdivisions; ()
 - b.** The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America shall not be required to pay any of the fees required by Section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by Section 42-1721, Idaho Code, for information purposes only; ()
 - c.** Every municipal or quasi-municipal corporation; ()
 - d.** Every public utility; ()
 - e.** Every person, firm, association, organization, partnership, business, trust, corporation or company; ()
 - f.** The duly authorized agents, lessees, or trustees of any of the foregoing; ()
 - g.** Receivers or trustees appointed by any court for any of the foregoing. ()
- 10. Alterations, Repairs or Either of Them.** Only such alterations or repairs as may directly affect the safety of the mine tailings impoundment structure or reservoir, as determined by the Director. ()
- 11. Enlargement.** Any change in or addition to an existing mine tailings impoundment structure or reservoir, which raises or may raise the storage capacity of the structure, as defined in Rule Subsection 010.06. ()
- 12. Days Used in Establishing Deadlines.** Calendar days including Sundays and holidays. ()
- 13. Certificate of Approval.** A certificate issued by the Director for the mine tailings impoundment structure listing restrictions imposed by the Director, and without which no new mine tailings impoundment structures shall be allowed to impound mine tailings slurry or water and no existing impoundment shall be allowed to impound water or continue deposition of mine tailings slurry. The structure will be recertified following the site

inspection scheduled according to the Hazard Classification assigned by the Department, unless the Director determines that the structure is unsafe. ()

14. Engineer. A registered professional engineer, licensed as such by the state of Idaho. ()

011. -- 024. (RESERVED)

025. AUTHORITY OF REPRESENTATIVE (RULE 25).

When plans, drawings and specifications are filed by another person on behalf of an owner, written evidence of authority to represent the owner shall be filed with the plans, drawings and specifications. ()

026. -- 029. (RESERVED)

030. FORMS (RULE 30).

Forms required by these rules. ()

01. Samples of Forms. Samples of all forms required by these rules are available from the Department to interested parties upon request. ()

02. Form 1721. Construction of a mine tailings impoundment structure requires the filing of Form 1721. ()

031. -- 034. (RESERVED)

035. PLANS, DRAWINGS, AND SPECIFICATIONS (RULE 35).

The following provisions shall apply in submitting plans, drawings, and specifications. ()

01. Submission of Plans, Drawings, and Specification. Any owner who shall desire to construct, or enlarge, or alter or repair any mine tailings impoundment structure shall submit duplicate copies of plans, drawings, and specifications prepared by an engineer for the proposed work to the Director with required fees. An owner who desires to construct a continuously raised tailings impoundment structure shall submit duplicate copies of plans, drawings, and specifications prepared by an engineer, showing the stages of lift height, by periods of time, and ultimate design height. ()

02. Application for and Receipt of Written Approval. Construction of a new mine tailings impoundment structure or enlargement, or non-emergency alteration or repairs on existing mine tailings impoundment structures shall not be commenced until the owner has applied and obtained written approval of the plans, drawings, and specifications covering the work. In emergency situations, the owner shall make the required alterations or repairs necessary to relieve the emergency, and notify the Director. ()

03. Preparation and Submission of Plans. Plans must be prepared on a good grade of tracing linen or a good quality vellum or mylar. Transparent copies reproducible by standard duplicating processes, if accurate, legible and permanent, will be accepted. Plans may initially be submitted in the form of nonreproducible paper prints. After reviewing the plans, the Director will notify the owner of any required changes. ()

04. Scale of Plans and Drawings. Plans and drawings shall be of sufficiently large scale with an adequate number of views and proper dimensions, so that drawings may be readily interpreted and studied. ()

05. Dimensions of Plans. All sheets for a set of plans shall have an outside dimension of twenty-four by thirty-six (24 x 36) inches. A margin of two (2) inches on the left-hand end and a margin of one-half (1/2) inch on the other three sides must be provided, making the available work space twenty-three (23) x thirty-three and one-half (33 1/2) inches. ()

06. Plans. The plans shall include the following: ()

a. A topographic map of the mine tailings impoundment structure site showing the location of the proposed mine tailings impoundment structure by section, township and range, and location of spillway or diversion

structures, outlet works, and all borings, test pits, borrow pits; ()

b. A profile along the mine tailings impoundment structure axis showing the locations, elevations, and depths of borings or test pits, including logs of bore hole and/or test pits; ()

c. A maximum cross-section of the mine tailings impoundment structure showing elevation and width of crest, slopes of upstream and downstream faces, thickness of any proposed riprap, zoning of the earth embankment (if any), location of cutoff and bonding trenches, elevations, size and type of decant systems, valves, operating mechanism, and dimensions of all other essential structural elements such as cutoff walls, filters, embankment zones, etc.; ()

d. Detailed drawings describing the outlet system, i.e., decant line, barge pump system, siphon system; ()

e. If a spillway is used, a curve showing the discharge capacity in cubic feet per second of the spillway vs. gage height of the storage pool level above the spillway crest up to the maximum high-water level, and the formula used in making such determinations; ()

f. If a stream diversion is created, a tabulation of the discharge capacity in cubic feet per second of any diversion works and of the diversion channel vs. flow depth through the diversion works or channel up to maximum capacity of the system, and the formulas used in making such determinations; ()

g. Where staged construction will take place and no spillway exists, a curve showing maximum safe operating level for the tailings as a function of embankment height and the design criteria used to arrive at this; ()

h. Detailed plans, including cross-sections and profile, of the spillway or diversion works and any associated channels; ()

i. Plans for monitoring and/or recovering seepage from the reservoir in those instances where safety of the impoundment may be affected; ()

j. An operation plan; ()

k. An emergency procedure plan for protection of life and property; ()

l. An abandonment plan that assures the Director to his satisfaction that, upon completion of the mining operation, the site will be in a safe maintenance-free condition. ()

07. Specifications. Specifications shall include provisions acceptable to the Director for adequate observation, inspection and control of the work by a registered professional engineer during the period of construction. ()

08. Provision Included with Plans. The specifications shall provide that the plans and specifications may not be materially changed without prior written consent of the Director. ()

09. Provisions Included with Specifications. The specifications shall provide that certain stages of construction shall not proceed without the approval of the Director. Those stages requiring approval are as follows: ()

a. After clearing and excavation of foundation and prior to placing any fill material; ()

b. After installation of the decant conduit and any proposed collars and before placing any backfill material around conduit; ()

c. After construction is completed (first stage starter dike if staged construction) and before any water or mine tailings slurry is stored in the reservoir; ()

- d. Before each successive enlargement of the impoundment structure; ()
- e. After each stage of enlargement of the impoundment structure is completed and before storage is allowed to exceed the level approved for the previous approved stage; ()
- f. At such other times as determined necessary by the Director. The Director will, within seven (7) days after notification by the engineer, inspect and if satisfactory, approve the completed stage of construction. Owners are encouraged to give prior notice to the Department, so that the inspection can be scheduled to prevent delays. ()
- 10. Inspections, Examinations, and Tests.** All materials and workmanship may be subject to inspection, examination and test by the Director at any and all reasonable times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. ()
- 11. Rejection of Defective Material.** The Director shall have the right to require the owner or engineer to reject defective material and workmanship or require its correction. Rejected workmanship shall be corrected and rejected material shall be replaced with proper material. ()
- 12. Suspension of Work.** The Director may order the engineer to suspend any work that may be subject to damage by climatic conditions. ()
- 13. Responsibility of Engineer.** These provisions shall not relieve the engineer of his responsibility to assure that construction is accomplished in accordance to approved plans and specifications or to suspend work on his own motion. ()
- 14. Detailing Provisions of Specifications.** The specifications shall state in sufficient detail, all provisions necessary to ensure that construction is accomplished in an acceptable manner and provide needed control for construction to ensure that a safe structure is constructed. ()
- 15. Required Information.** The following information shall be submitted with the plans and specifications. ()
- 16. Engineer's Report.** An engineer's report giving details necessary for analysis of the structure and appurtenances. Included as a part of the report where applicable shall be the following: ()
- a. Formulas and assumptions used in designs; ()
- b. Hydrologic data used in determining runoff from the drainage areas; ()
- c. Engineering properties of each type of material to be used in the embankment and of the foundation areas; ()
- d. Stability analysis, including an evaluation of overturning, sliding, upstream and downstream slopes and foundation stability; ()
- e. Geologic description of reservoir area, including evaluation of landslide potential; ()
- f. Chemical analysis of all materials composing the slurry; ()
- g. Earthquake design loads must be evaluated at all sites located east of Range 22 E., Boise Meridian. This area corresponds to Seismic Zone 3 as designated by the Recommended Guidelines of the National Dam Safety Program. Earthquake analysis may be required at other impoundment structure sites if deemed necessary by the Director; ()
- h. A seepage analysis of the embankment and reservoir bottom; ()

- i. A hydraulic analysis of the outlet system and spillway, diversion work or diversion channel; ()
- j. Engineering properties and the weathering characteristics of the proposed tailings to be stored in the impoundment; ()
- k. Other information which would aid in evaluating the safety of the design. ()

17. Filing of Additional Information. The Director may require the filing of such additional information which in his opinion is necessary to assess safety or waive any requirement herein cited if in his opinion it is unnecessary. ()

036. -- 039. (RESERVED)

040. BONDING (RULE 40).

An active surety bond or other means of acceptable surety payable to the Director of the Department of Water Resources shall be on file with the Director throughout the active life of the tailings disposal site. The purpose of this bond is to provide a means by which the tailings impoundment can be placed in a safe maintenance-free condition if abandoned by the owner without conforming to an abandonment plan approved by the Director. ()

01. Filing of Bond. The bond shall be filed prior to any issuance by the Director of a certificate of approval for use of the mine tailings impoundment structure to impound mine tailings slurry and shall run for the approval period covered on the certificate of approval. ()

02. Provisions of Bond. Bond provisions shall provide that the surety may be held liable for a period of up to five (5) years following notice of default on the bond. ()

03. Amount of Bond. The bond amount will be set by the Director and is subject to revision each time it is renewed. The owner must obtain approval for the amount of his surety bond prior to each renewal. ()

04. Cost Estimate Submitted by Engineer. In order to provide a basis for setting the bond amount, the engineer shall submit a cost estimate acceptable to the Director, together with conceptual details needed to arrive at the estimate, for abandonment of the facility at each proposed stage of its construction. ()

05. Current Costs for Abandonment. Bond amount will be based on current costs for abandonment of the facility based on the approved cost estimate for abandonment at the present construction condition or the next approved proposed stage, whichever represents the larger bond amount. ()

06. Determination of Bond Amount. If the final abandonment is determined to be the most costly condition, the owner may elect to use this as a basis for bonding throughout the life of the project. The Director may, however, revise the bonding amount to reflect updated costs when he feels it is necessary in order to maintain a realistic bond. ()

07. Filing Initial Bond. The initial bond shall be filed upon completion of the first stage of construction and before the required certificate of approval is issued to allow storage of mine tailings slurry in the impoundment. No certificate of approval shall be renewed prior to filing by the owner of a bond renewal in an amount approved by the Director. ()

08. Filing Copy of Performance Bond. Upon the filing of a copy of a performance bond with the Director, covering the terms and conditions of a state of Idaho mineral lease or an approved reclamation plan, in which these documents specify compliance with a plan of restoration of all mining operations, including the tailings impounding structure, the Director may determine the bond required of this section has been met, if the amount of the bond accurately reflects the cost associated with the abandonment plan provided by the owner. ()

041. -- 044. (RESERVED)

045. MINE TAILINGS IMPOUNDMENT STRUCTURES DESIGN CRITERIA (RULE 45).

The following minimum design criteria shall be used for all mine tailings impoundment structures designed for

installation in Idaho. These limitations are intended to serve as guidelines for a broad range of circumstances, and engineers should not consider them as a restriction to the use of other sound design criteria. Deviation from this established criteria will be considered by the Director in approving plans and specifications. ()

01. Embankment Slopes. ()

a. For construction of borrowed fill embankments, in the absence of a stability analysis, the slopes shall be:

Upstream slope	2:1 or flatter
Downstream slope	2:1 or flatter

()

b. Construction by the upstream method shall not be used in the area of the state east of Range 22 E., Boise Meridian, unless the engineer can provide evidence that the construction and operation of the tailings impoundment will achieve a relative density of sixty percent (60%) or greater in the embankment and tailings to prevent liquefaction during earthquake loading. ()

c. Safety factors for the embankment shall be at least one and five-tenths (1.5) for static loads and a minimum of one (1) for the static plus the appropriate earthquake load. ()

d. To insure sufficient permeability and stability of the embankment, designs will require utilizing materials other than the tailings, when the tailings materials: ()

i. Contain greater than seventy-five percent (75%) passing the #200 standard U.S. sieve, or fifty percent (50%) passing the #325 standard U.S. sieve; ()

ii. Contain phosphate clays; ()

iii. The design calls for the water to be impounded against the embankment; ()

iv. Have other properties which makes them unsuitable for use as construction materials. ()

e. Embankments designed for the storage of hazardous levels of radioactive materials shall, in addition to any requirements of these regulations, meet the criteria outlined in the Nuclear Regulatory Commission Regulatory Guide 3.11 and the Idaho Radiation Control Regulations administered by the Idaho Department of Environmental Quality. ()

f. The design shall consider the need for drains and/or operational procedures to promote consolidation and insure that a low phreatic surface is maintained within the embankment. Drainage pipe shall not be used beneath embankments where excessive or differential settlement may cause failure of the pipes and subsequent piping of the tailings or embankment. When the quality of the mine tailings slurry is such that it will adversely affect the quality of the existing ground water, the design should be coordinated with the Department and the Department of Environmental Quality to insure that all applicable permits are obtained. ()

g. Instrumentation of the embankment and/or foundation will be required to insure that the structure is functioning satisfactorily. Standpipe piezometers with an inside diameter greater than one-half (1/2) inch will not be acceptable for use in fine-grained or cohesive soils in order to minimize response time. ()

h. Tailings impoundment structures which are constructed using the tailings shall not be constructed or raised during freezing weather to prevent frost lenses in the embankment. Sufficient freeboard must be provided during the summer construction season if the disposal operation is to continue during the winter. ()

i. If tailings are to be discharged during times of freezing weather and the embankment is to be constructed using either the upstream or centerline method, the pond shall be of sufficient size to insure that any ice formed in the tailings pond area melts during the next warm season. ()

02. Top Width Embankment. ()

a. In the absence of a stability analysis, the minimum top width for mine tailings impoundment structures shall be:

$W = 2 (H \text{ to } 1/2 \text{ power}) + 4, \text{ minimum}$
 $W = \text{Top width}$
 $H = \text{Embankment height} \quad ()$

b. The minimum top width for any tailings embankment is ten (10) feet. ()

03. Cutoff Trenches or Walls. ()

a. Cutoff trenches, if needed, shall be used to bond the fill through relatively pervious material to an impervious stratum or zone. The bond area shall extend up the abutments to the maximum high water or tailings impoundment elevation. Cutoff (keylock) trenches which are to be backfilled with compacted fill shall be wide enough to allow the free movement of excavation and compaction equipment. Side slopes shall be no steeper than 1:1 for depths up to twelve (12) feet, and no steeper than one and one-half (1 1/2) to one (1) for greater depths to provide for proper compaction. Flatter slopes may be required for safety and stability. ()

b. Concrete cutoff walls may be used to bond fills to smooth rock surfaces in a similar manner as cutoff trenches and they shall be entrenched in the rock to a depth approximately one-half (1/2) the thickness of the cutoff wall. Concrete cutoff walls shall be doweled into the rock a minimum of twelve (12) inches with a maximum spacing of eighteen (18) inches for three-quarter (3/4) inch steel dowels. Concrete walls shall have a minimum projection of three (3) feet perpendicular to the rock surface and shall have a minimum thickness of twelve (12) inches. ()

04. Borrowed Fill Embankment. ()

a. The approved earth materials (silt soils are seldom acceptable) shall be zoned as shown in the plans and placed in the embankment in continuous, approximately level layers. Compaction shall be based on ASTM D-698 for cohesive soils and a minimum compaction of ninety-five percent (95%) of the laboratory Standard Proctor dry density is required. Compaction of cohesionless soils shall insure a relative density of sixty percent (60%) or greater. ()

b. An acceptable working range of moisture content for the fill material shall be established and maintained. ()

c. The material shall be compacted by means of a loaded sheepsfoot roller, vibratory roller, or other acceptable means, to the required density. ()

d. No rock shall be left in the fill material which has a maximum dimension exceeding the lift thickness. The fill material shall be free of brush and organic materials. ()

e. The fill shall be carried up simultaneously the full design width of the structure, and the top of the fill shall be kept substantially level at all times or slope slightly toward the reservoir. ()

f. No frozen or cloddy fill material shall be used, and no material shall be place upon frozen, muddy or unscarified surfaces. ()

g. All materials used in the embankment shall meet all the stability and seepage requirements as shown by a design analysis of the structure and shall be properly installed to meet these requirements. ()

05. Riprap. ()

a. All dams shall be protected from wave action. In cases where water is stored directly against the

mine tailings impoundment structure or where wave action at maximum pool level during design inflow events would affect the integrity of the embankment, the Director may require use of riprap or other protective measures. ()

b. If riprap is used the design shall specify the rock size and extent of blanket required to prevent erosion. ()

06. Outlet Systems. ()

a. Reservoirs must safely handle the design inflow for all areas draining into the reservoir. This may be done either by storing the entire design inflow or by having an outlet system or combination of systems adequate to safely pass the design inflow. If the tailings reservoir is situated on a stream channel, an outlet system or an approved alternative system capable of meeting downstream flow requirements must be provided. ()

b. The minimum design inflow for all reservoirs shall be the flood with one percent (1%) probability of occurrence. The Director may require a greater design inflow be used in instances of high hazard, for larger mine tailings impoundment structures, or when the inflow is to be entirely stored in the reservoir during the flood period. ()

c. The outlet system may be composed of one (1) or a combination of the following: decant line, spillway, or stream channel diversion to bypass the reservoir. The system will be determined by individual reservoir conditions. Unless removal of the mine tailings impoundment structure and reservoir is part of the abandonment plan, the outlet system shall be maintained in perpetuity, unless it is demonstrated that an outlet system is not needed. ()

d. Outlet systems will not be allowed if their use would release toxic, highly turbid, radioactive or otherwise hazardous flows from the reservoir. In these cases the design inflow must either be entirely stored or diverted around the reservoir. ()

e. All spillways shall be stabilized to discharge flow through the use of concrete, masonry, riprap or sod, if not constructed in resistant rock. ()

f. Wherever possible, the spillway shall be constructed independent of the impoundment structure. It shall lead the water far enough away from the mine tailings impoundment structure so as not to endanger the structure. ()

g. A diversion system must not subject the mine tailings impoundment structure to erosion during the design inflow event. All stream diversions shall conform to the minimum standards for stream channel alterations as written by this Department. ()

h. Decant conduits, if under the embankment, shall be laid on a firm, stable foundation and normally must not be placed on fill. They shall have a minimum inside diameter of twelve (12) inches and one (1) of the following provisions included in the design: ()

i. The owner shall have the conduit inspected by photographic or video tape equipment and a copy of the inspection provided to the Department, if a problem is suspected; or ()

ii. The conduit shall be completely plugged with concrete and/or suitable material, for that portion which extends through the embankment, if a nonrepairable problem occurs within the conduit. The conduit shall consist of material which has been shown to possess the qualities necessary to perform in the environment of the specific tailings impoundment. The design life of the conduit shall be greater than the life of the mine tailings impoundment structure. The portion of the conduit through the embankment shall be completely filled with concrete, or other suitable material, and the riser portion of the conduit capped, upon abandonment of the mine tailings impoundment structure. ()

i. All decant conduits, if under the embankment, shall have a seepage path through the impervious zone at least equivalent in length to the maximum head above the downstream end of the system. Only one third (1/3) the horizontal distance through the impervious zone will be utilized when calculating the length of the seepage path.

Collars may be used to satisfy this requirement, but all collars shall extend a minimum of three (3) feet outside the conduit. Collars shall be spaced at intervals of at least seven (7) times their height and no collar may be closer to the outer surface of the impervious zone than the distance it extends out from the conduit. ()

j. More than two (2) decant conduits are not to be used, unless special conditions warrant. ()

07. Freeboard. A minimum freeboard of two (2) feet plus wave height (H) shall be provided on the crest of the mine tailings impoundment structure during passage of the design inflow.

H = 1.95 (F to 1/2 power)
F = Fetch in miles across water surface at a design maximum level. ()

08. Records. All instrumentation shall be read and recorded on a regular basis, and all records must be available for inspection by Department personnel on request. ()

09. Inspection and Completion Reports. ()

a. It is the responsibility of the engineer to submit test reports along with periodic inspection and progress reports to the Director. ()

b. Upon completion of each approved stage of construction, a letter shall be sent to the Director, giving a short, narrative account covering all items of work. As-built plans shall be submitted to the Director if the completed project was substantially changed from the plans originally approved. ()

10. Abandonment. An abandonment plan which provides a stable, maintenance-free condition when the mine tailings impoundment is no longer being regularly maintained by the owner or the owner has ceased to use the site for disposal of mine tailings slurry, shall be submitted to the Director by the owner. The plan shall provide a safe condition by providing for removal of the tailings, or construction of a maintenance-free spillway or diversion works where needed to accommodate runoff. The plan shall include provisions to prevent water storage behind, and erosion of, the mine tailings impoundment structure and the impounded tailing. A conceptual plan which includes an engineering design report, detailed enough to provide the required cost estimate for bonding purposes, will be required prior to the approval of the proposed project. Detailed construction plans must be approved by the Director prior to implementation of any abandonment work. The Director shall notify the owner upon acceptance of completion of abandonment in accordance with the approved plan. ()

046. -- 049. (RESERVED)

050. DAMS STORING TAILING AND WATER (RULE 50).

Construction of dams intended to store water in excess of the water being decanted in the tailing placement operation shall also meet the requirements for water storage reservoirs specified in the Department's Rules for the Safety of Dams. The Director may waive any or all of these requirements if, in the opinion of the Director, sound engineering design supplied by the owner indicates such requirements are not applicable. ()

051. -- 054. (RESERVED)

055. PROVISIONS OF CHAPTER 17, TITLE 42, IDAHO CODE (RULE 55).

The provisions of Sections 42-1709 through 42-1721, Idaho Code, are a part of these rules. ()

056. -- 999. (RESERVED)

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.06 – SAFETY OF DAMS RULES

DOCKET NO. 37-0306-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized pursuant to §§ 42-1710 and 42-1714, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

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.

The Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) (the “Agencies”) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This rule chapter was scheduled for review in 2022.

With this Notice, the Agencies propose a new chapter of safety of dams rules. The new chapter is approximately 12% shorter than the existing safety of dams rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule come through a combination of (a) removal of obsolete provisions (such as removal of unique design requirements for small dams), (b) removal of unnecessary provisions (such as the definition and use of the term “active storage” and “water storage elevation”), (c) reconciling inconsistencies between current statutory requirements and outdated requirements in the old rule concerning the inspection intervals of some dams, and (d) modifications to existing rules governing the size limits, hazard categories, and design requirements for various dams.

Pursuant to the ZBR process, this Notice represents the promulgation of a new rule chapter. As a result, the proposed rule does not contain strike-out/underline text in legislative format. The old rule has been repealed and replaced in its entirety. However, the development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2022-2023/>. At the same website, the Agencies also developed and published rulemaking support documents, which provide the Agencies’ recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

Citizens of the state of Idaho, water users, governmental agencies, and environmental groups may be interested in commenting on the proposed rule text. After consideration of public comments received in response to this Proposed Rule, the Agencies will present the final rule text to the Idaho Legislature in the late fall of 2022.

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

IDAPA 37.03.06 establishes acceptable standards for construction of dams and establishes guidelines for safety evaluation of new or existing dams. The Rule applies to all new dams, to existing dams to be enlarged, altered or repaired, and maintenance of certain existing dams, as specifically provided in the Rule. This chapter also establishes the collection of a fee to review plans, drawings, and specifications pertaining to the construction, enlargement, alteration, or repair of small high-risk, intermediate, or large dams.

FISCAL IMPACT STATEMENT: 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 § 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, page 86-87](#).

INCORPORATION BY REFERENCE: Pursuant to § 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

Anyone can submit written comments regarding this proposed rule by mail to the address below or by email sent to rulesinfo@idwr.idaho.gov. The Department will consider all written comments received by the undersigned on or before October 26, 2022.

Dated this 2nd day of September, 2022.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208) 287-4800

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 37-0306-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

37.03.06 – SAFETY OF DAMS RULES

000. LEGAL AUTHORITY.

These rules are adopted pursuant to Chapter 17, Section 42-1714, Idaho Code. ()

001. SCOPE.

These rules establish acceptable standards for design and construction, and guidelines for evaluating the safety of new or existing dams. The rules apply to all new construction including existing structures considered for enlargement, alteration, modification, or repair as specifically provided in the rules. The Director will evaluate any deviation from the standards hereinafter stated as they pertain to the safety of any given dam. The standards listed herein are not intended to restrict the application of other sound engineering design principles that will provide for the public safety. Under no circumstances shall these rules be construed to deprive or limit the Director of any exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount or character of data, or information which may be required by the Director from any owner of a dam or for the proper administration of the law. ()

002. ADMINISTRATIVE APPEALS.

Any person aggrieved by an action of the Director and who has not previously been afforded an opportunity for a hearing on the matter is entitled to a hearing before the Director to contest the action pursuant to the provisions of Section 42-1701A(3), Idaho Code, and the Department’s adopted Rules of Procedure. ()

003. – 009. (RESERVED)

010. DEFINITIONS.

Unless the context otherwise requires, the following definitions govern these rules. ()

01. Alterations or Repairs. Any activity that may affect the safety or integrity of a dam. Alterations and repairs do not include routine maintenance items. ()

02. Appurtenant Structures. Ancillary features (e.g., outlets, tunnels, gates, valves, spillways, auxiliary barriers, etc.) used for operation of a dam, which are owned or for which the owner has responsible control. ()

03. Artificial Barrier or Embankment. Any structure constructed to impede, obstruct, or store water. ()

04. Borrowed Fill Embankment. Any embankment constructed of borrowed earth materials, and which is designed for construction by conventional earth moving equipment. ()

05. Certificate of Approval. A certificate issued by the Director for all existing dams listing restrictions imposed by the Director, and without which none shall be allowed to impound water. ()

06. Conduit. A pipe or other constructed conveyance within a dam designed to release water or liquid in the reservoir. ()

07. Core. A zone of relatively low permeability material within an embankment. ()

08. Cutoff Trench. An excavation later to be filled with impervious material during construction of a dam to limit seepage beneath the structure and through the foundation. ()

09. Dam. Any artificial barrier together with appurtenant works, which is or will be ten (10) feet or more in height and has or will have an impounding capacity at maximum storage elevation of fifty (50) acre-feet or more. Height of a dam is defined as the vertical distance from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Director, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation. Under Section 42-1711, Idaho Code, the following are not included as regulated dams or are not considered dams for the purposes of Sections 42-1710 through 42-1721, Idaho Code: ()

a. Barriers in a canal used to raise or lower water therein or divert water therefrom. ()

b. Fills or structures determined by the Director to be designed primarily for highway or railroad traffic. ()

c. Fills, retaining dikes or structures less than twenty (20) feet in height, which are under jurisdiction of the Department of Environmental Quality or the Department of Agriculture, determined by the Director to be designed primarily for retention or treatment of municipal, livestock, or domestic wastes, or sediment and wastes from produce washing or food processing plants. ()

d. Levees, that store water regardless of storage capacity. ()

10. Days. Calendar days including Sundays, Saturdays, and holidays. ()

11. Department. The Idaho Department of Water Resources. ()

12. Design Evaluation. The engineering analysis required to evaluate the performance of a dam relative to earthquakes, floods, or other site-specific conditions anticipated to affect the safety or operation of the dam, or appurtenant facilities. ()

13. **Director.** The Director of the Department of Water Resources. ()
14. **Embankment.** An artificial barrier constructed of earth, sand, rock, or gravel used to impound water. ()
15. **Emergency Action Plan (EAP).** A written plan with instructions to be taken to reduce the potential for property damage and loss of life in an area affected by a dam failure or uncontrolled release of stored contents. ()
16. **Enlargement.** Any change in or addition to an existing dam which raises or may raise the elevation of the contents impounded by the dam. ()
17. **Factor of Safety.** A ratio of available shear strength to shear stress, required for stability. ()
18. **Flashboards.** Structural members of timber, concrete, steel, or other erosion resistant material placed across a channel or entrance to a spillway to temporarily raise the surface level of the reservoir. ()
19. **Flood.** An increase in water surface elevation due to naturally occurring runoff or other rise in water levels that result in the inundation of areas not normally covered by water. As defined herein floods may be expressed in terms of average annual probability of exceedance, corresponding to values which may be described as flow rate, volume, or elevation (i.e., stage). ()
20. **Flood Surcharge.** A variable volume of water temporarily detained in a reservoir, in the space (or part thereof) that is filled by excess runoff or flood water, above the approved design maximum storage elevation. Flood surcharge is passed through the reservoir and discharged downstream until the reservoir level has been drawn down to the design maximum storage elevation. ()
21. **Freeboard.** Vertical height between the maximum design water surface elevation and the lowest elevation along the top of the dam. Freeboard can include a provision for variables such as wave height, flood surcharge, settlement, and flashboards. ()
22. **Hazard.** The potential consequences to downstream life and property resulting from a dam failure and uncontrolled release of water, exclusive of the size or the physical condition of the dam. Hazard Classifications shall be assigned to new and existing dams based on the severity of failure consequences to life and property. ()
23. **Hydraulics.** The conveyance of liquid through pipes and channels. ()
24. **Hydrology.** The study of precipitation, snowmelt, and runoff in relation to land surfaces. ()
25. **Inflow Design Flood (IDF).** The flood specified for designing a dam, or appurtenant facility. Commonly expressed inflow design flood(s) include peak rate(s) of flow and volume(s) associated with floods having an annual exceedance probability of one percent (1%) (i.e., Q100) and zero point two percent (0.2%) (i.e., Q500), and the PMF (probable maximum flood). ()
26. **Intermediate Dams.** Artificial barriers twenty (20) feet or more in height but less than forty (40) feet and capable of storing one hundred (100) acre-feet of water or more but less than four thousand (4,000) acre-feet. ()
27. **Large Dams.** Artificial barriers forty (40) feet or more in height or capable of storing four thousand (4,000) acre-feet or more of water. ()
28. **Levee.** A retaining structure alongside a natural lake which has a length two hundred (200) times greater than its greatest height measured from the lowest elevation of the toe to the maximum crest elevation of the retaining structure. ()
29. **Lift Construction.** Embankment enlargement by raising the elevation of the structure on a continuous or recurring basis. Such practice will be considered under construction until the structure reaches its final

crest elevation. ()

30. Maximum Water Storage Elevation. The maximum design elevation of the water surface or stored contents which can be impounded by the dam. ()

31. Operation Plan. A specific plan that promotes the safe operation of the dam for its intended purpose, and which provides specific limits and procedures for controlling inflow, storage, and/or release of water or slurry. ()

32. Owner. Includes any of the following who own, control, operate, maintain, manage, or propose to construct a dam, or reservoir: ()

a. The state of Idaho and its departments, agencies, institutions, and political subdivisions; ()

b. The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America shall not be required to pay any of the fees required by Section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by Section 42-1712, Idaho Code, for information purposes only; ()

c. Every municipal or quasi-municipal corporation; ()

d. Every public utility; ()

e. Every person, firm, association, organization, partnership, business trust, corporation, or company; ()

f. The duly authorized agents, lessees, or trustees of any of the foregoing; or ()

g. Receivers or trustees appointed by any court for any of the foregoing. ()

33. Professional Engineer. A person licensed as a professional engineer by the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors under chapter 12, title 54, Idaho Code. For the purposes of this rule, the use of the term engineer implies a professional engineer consistent with this definition. ()

34. Release Capacity. The ability of a dam to pass excess water through the spillway(s) and outlet works. ()

35. Reservoir. Any basin which contains or will contain the water impounded by a dam. ()

36. Small Dams. Artificial barriers ten (10) feet or more in height but less than twenty (20) feet in height and that store fifty (50) acre-feet or more but less than one hundred (100) acre-feet of water. ()

37. Spillway. A constructed channel over, through, or around a dam, which is designed to accommodate the inflow design flood and thus prevent overtopping by the reservoir. ()

38. Storage Capacity. The total storage in acre-feet at the maximum design storage elevation. ()

011. – 014. (RESERVED)

015. AUTHORITY OF REPRESENTATIVE.

When plans, drawings, and specifications are filed by another person on behalf of an owner, written evidence of authority to represent the owner shall be filed with the plans, drawings, and specifications. ()

016. – 019. (RESERVED)

020. DAM SIZE CLASSIFICATION.

01. Size Classification. The following table defines the height and storage capacity limits used by the Department to classify dams regulated for the benefit of public safety:

Size Classification	Height	Storage Capacity
Small Dams and Reservoirs	Ten (10) feet or more but less than twenty (20) feet	and Fifty (50) acre-feet or more but less than one hundred (100) acre-feet.
Intermediate Dams and Reservoirs	Twenty (20) feet or more but less than forty (40) feet	and One hundred (100) acre-feet or more but less than four thousand (4,000) acre-feet.
Large Dams or Reservoirs	Forty (40) feet or more	or Four thousand (4,000) acre-feet or more.

()

02. Determination of Size. The Director shall determine the size category of a new or existing dam.

()

021. – 024. (RESERVED)

025. HAZARD CLASSIFICATION.

01. Hazard Classification. The following table describes categories of hazard used by the Department to classify dams relative to the potential failure consequences estimated for downstream locations. The listed hazard categories are meant to serve as guidelines for implementing design, construction, and operation criteria, subject to final interpretation by the Director:

Hazard Category	Downstream Development	Estimated Loss of Life	Economic Losses
Low	Undeveloped property, no permanent or permanently occupied structures for human habitation.	No loss of life	Low probability for economic loss or damage to or disruption of essential infrastructure.
Significant	No concentrated urban development, 1 or more permanent structures for human habitation within the flood zone that are potentially inundated with flood water at a depth of two (2) feet or less.	Loss of life is unlikely to occur	Significant damage to agricultural, commercial, or industrial facilities; damage to or the disruption of transportation, utilities, or other public facilities or values including environmental loss.
High	Urban development, or any structure for permanent or temporary human habitation which are potentially inundated with flood water at a depth greater than two (2) feet	High probability for loss of life	Major damage to agricultural, commercial, or industrial facilities; damage to or the disruption of transportation, utilities, or other public facilities or values including prolonged environmental loss.

02. Determination of Hazard Classification. The Director shall determine the hazard category of a new or existing dam. Any dam classified as Significant or High hazard regardless its height and storage capacity shall meet the requirements specified in Rules 35, 45, 50, 55, and 60 of these rules. ()

026. – 029. (RESERVED)

030. FORMS.

Forms required by these rules are available from the Department to interested parties upon request. ()

031. – 034. (RESERVED)

035. DESIGN REPORTS, DRAWINGS, AND SPECIFICATIONS.

The following provisions shall apply when submitting plans, drawings, reports, and specifications for dams to the Director for design review and approval, prior to commencing construction. ()

01. Submission of Duplicate Plans, Drawings and Specifications. Any owner desiring to construct, enlarge, alter, or repair any dam, shall submit duplicate plans, drawings and specifications prepared by an engineer for the proposed work to the Director with required fees for approval prior to commencing construction. ()

02. Applying for and Obtaining Written Approval. Construction of a new dam, or the enlargement, alteration, or repair of such shall not commence until the owner has applied for and obtained written approval of the plans, drawings, and specifications from the Director. ()

03. Preparation and Submission of Plans. Plans and drawings shall be of a sufficient scale with an adequate number of views showing proper dimensions, so that the plans and drawings may be readily interpreted and so that the structure and appurtenances can be built in conformance with the approved design. Plans and drawings shall be submitted in both printed and digital format, with the printed version consisting of paper size eleven by seventeen (11 x 17) inches. After reviewing the plans, the Director will notify the owner of any required changes. ()

04. Information Included with Plans. Plans for new dams or the enlargement, alteration, or repair of such shall include as much of the following information as determined necessary by the Director to adequately describe the enlargement, alteration, or repair and the effect on the existing structure or its appurtenances: ()

a. A topographic map of the project site showing the location of the proposed construction by section, township and range, and location of all borings, test pits, borrow pits and other locations of samples obtained for field or laboratory testing; ()

b. A profile depicting the locations, elevations, and depths of borings or test pits, including the visual illustration of logs of bore holes, test pits, or borrow pits; ()

c. A cross-section of the structure at maximum section showing elevation and width of crest, slopes of upstream and downstream faces, thickness of riprap, zoning of earth embankment, location of cutoff and bonding trenches, elevations and dimensional heights, size and type of conduits, valves, operating mechanism, and dimensions of all other essential elements deemed to be necessary for properly constructing the approved design; ()

d. Detailed drawings showing plans, cross and longitudinal sections of appurtenant features such as but not limited to the spillway, training walls, outlet conduits, valves, gates, trash rack, and control works; ()

e. A curve or table showing the capacity of the reservoir or tailings impoundment in acre-feet vs. gauge height referenced to a common project datum and the computations used in making such determinations; ()

f. A curve or table showing the outlet discharge capacity in cubic feet per second vs. gauge height of reservoir storage level, and the computations used in making such determinations; ()

g. A curve or table showing the spillway discharge capacity in cubic feet per second vs. gauge height of the reservoir or flood surcharge level above the spillway crest and the computations used in making such determinations; ()

h. Detailed drawings of spillway structure(s), including cross-sections of the channel entrance and exit points to and from the spillway and a spillway profile; ()

i. Plans for flow measuring devices capable of providing an accurate determination of the flow of the stream above or below the reservoir, and a permanent reservoir or staff gauge near the outlet of the reservoir plainly marked in feet and tenths of a foot referenced to an approved datum; and ()

j. Plans or drawings of instruments recommended by the owner or engineer to monitor the performance of the dam to assure safe operation, or as may be required by the Director as deemed necessary to monitor any structure for benefit of public safety regardless of size. ()

05. Specifications. The engineer shall prepare specifications that include instructions for construction of the approved design in accordance with accepted engineering and industry standards of care, including provisions for adequate observation, inspection, and control of the work by an engineer during the period of construction. ()

06. Changes to the Approved Design. The approved design shall not be materially changed without prior written consent of the Director. Design changes which may affect the stability, size, or integrity of the structure, while construction is underway, shall be submitted for the Director's review and approval. In emergency situations, the owner shall make the required alterations or repairs necessary to relieve the emergency, and subsequently notify the Director of all alterations or repairs implemented. ()

07. Inspections. The owner shall allow inspections by the Department to assure the dam and appurtenant structures are constructed in conformance with the approved plans and specifications, or as may be revised by the engineer and approved by the Director if there are unforeseen conditions discovered during site preparation or construction which potentially jeopardize the future integrity and safety of the project works. The Department may request of the owner that certain stages of construction not proceed without inspection and approval by the Director. ()

08. Inspection, Examination and Testing of Materials. All materials and workmanship shall be subject to review, inspection, examination, or testing by the Director. ()

09. Rejection of Defective Material. The Director may order the owner or engineer to reject defective material. The owner shall correct rejected workmanship and replace rejected material with approved material. ()

10. Suspension of Work. The Director may order the engineer to suspend any work that is or is likely to be subject to damage by inclement weather conditions. ()

11. Responsibility of Engineer. These provisions shall not relieve the engineer of their responsible charge to assure that construction is accomplished in accordance with their approved plans and specifications as mandated by Sections 54-1202(10) and (15), Idaho Code, or to unilaterally suspend work as deemed necessary. ()

12. Design Report. Owners proposing to construct, enlarge, alter, or repair a dam shall submit an engineering or design evaluation report to accompany the plans and specifications. The engineering report shall include as much of the following information as necessary to present the technical basis for the design and to describe the analyses used to evaluate performance of the structure and appurtenances. ()

a. All technical reference(s), equations, calculations, and assumptions used in the design. ()

b. Hydrologic data used in determining runoff from the drainage areas, reservoir flood routing pertinent to the project location, and hydraulic evaluations of the outlet(s) and the spillway(s) as may be required for approval of the design plans and specifications. ()

c. Investigation of site and subsurface conditions, to include the engineering properties of the foundation area and of each type of material to be encountered or used in the construction of the project works. ()

d. A stability analysis, including an evaluation of overturning, sliding, slope, and foundation stability and a seepage analysis; ()

i. An evaluation of seismic design loads may be included in the stability analysis for all dams as deemed necessary by the Director for benefit of public safety. The evaluation required for the design of large dams or high hazard structures shall use the maximum ground acceleration which could affect the dam site as established by deterministic or probabilistic analyses. ()

ii. Seismic analyses may be waived by the Director for new or existing dams if the consequence of failure is demonstrated to be sufficiently low or the critical features of design are demonstrated to be sufficiently conservative to allow minor deformation(s) without releasing the contents of the impounding structure. ()

e. Geologic description of reservoir area, including evaluation of landslide potential; ()

f. Engineering properties and the weathering characteristics of the contents proposed for storage in the impoundment, if applicable; ()

g. Other information which would aid in evaluating the safety of the design. ()

13. Additional Information/Waiver. The Director may require the filing of such additional information which in his opinion is necessary for the benefit of public safety or waive any requirement in these rules if available data demonstrates that it is unnecessary. ()

14. Alternate Plans. The Director may accept plans and specifications for dams, or portions thereof prepared for other agencies which are determined to meet the requirements of Rule 35, including but not limited to the following: ()

a. An operation plan; or ()

b. An emergency action plan to help protect downstream of life and property. ()

036. – 044. (RESERVED)

045. EMERGENCY ACTION AND OPERATION PLANS.

An Emergency Action Plan (EAP) is required for all Significant and High Hazard dams. The EAP shall establish emergency procedures for notification and response during unexpected or non-routine events that occur naturally, or in response to mechanical issues, or due to intentional vandalism/terrorism. The EAP may be a component of an Operation Plan that includes comprehensive guidelines and procedures for inspection, operation, maintenance, and monitoring of instruments required to record performance of the structure during normal operating cycles, critical filling, or flood periods, or as may be necessary for evaluating the effects of an earthquake. Before the initial filling of a reservoir, the owner shall file with the Director an EAP for review and approval. The Director may waive the EAP requirement of individual Significant Hazard Dam upon a determination that the flood inundation zone resulting from the potential failure or uncontrolled release of contents impounded by the structure will not damage downstream property. ()

046. – 049. (RESERVED)

050. NEW DAMS AND RESERVOIRS.

The following criteria shall be used by the Director as a basis to evaluate the design of new embankment dams and reservoirs. These guidelines are intended for a broad range of circumstances, and engineers should not consider them as a restriction to the use of other sound engineering design principles. Exclusion from these established criteria will be considered by the Director on a case-by-case basis during design review of plans, drawings, reports, and

specifications submitted for approval prior to commencing construction. Structures which are or will be constructed of other materials, for example concrete, timber, steel, or combinations thereof shall comply with these criteria as found appropriate by the Director, and with other engineering design methods and construction standards of care approved by the Director. ()

01. Embankment Stability. Slope stability analyses shall determine the appropriate upstream and downstream slopes. Unless a discrete slope stability analysis determines otherwise, the embankment slopes of earthen dams shall comply with the following:

Upstream slope	3:1 or flatter
Downstream slope	2.5:1 or flatter

()

a. Embankments shall be designed, constructed, and maintained to assure stability under static loads and prevent instability due to seepage or uplift forces, rapid drawdown conditions, and applied seismic loads. ()

b. The design analysis shall consider the need for installing filters, including but not limited to chimney drains, blanket drains, or toe drains, to avoid developing saturated conditions and protect against piping of the embankment fill material. Transmission of seepage through the embankment, abutments, and foundation shall be controlled to prevent internal erosion or the removal of material and instability where seepage emerges. ()

c. The minimum factor of safety for a steady state loading condition shall be one point five (1.5.) The minimum factor of safety for rapid drawdown loading shall be one point two (1.2.) The minimum factor of safety for seismic loading shall be one point zero (1.0.) ()

d. Seismic Stability. ()

i. The stability of an embankment subjected to earthquake ground motions may be analyzed by the engineer using either a dynamic response or pseudo-static analyses. Pseudo-static analyses are acceptable for embankment dams and foundations composed of non-liquifiable soils that preclude the generation of excess pore water pressures due to shaking. Otherwise, the stability analysis shall employ a dynamic response method. ()

ii. Slope deformation analyses are required for structures that are constructed of cohesionless soils exhibiting fine grain-size gradation and/or on foundations that may be subject to liquefaction. ()

iii. The design analyses for large and high hazard dams shall include a geologic and seismic report. The seismic report shall identify the location of faults, evaluate landslide potential, and include a history of seismicity. A comparison using deterministic and probabilistic analyses to calculate peak ground acceleration at the dam site may be required for geographic areas of the state showing evidence of seismic faults/faulting, as determined by the Director. ()

iv. The design analysis for dams that do not meet the size or hazard criteria listed in Rule 050.01.d.iii. shall include in the stability analysis peak ground accelerations obtained from Seismic Hazard Maps published by the United States Geologic Survey (USGS) using a minimum return interval of 2 percent (2%) probability of exceedance in fifty (50) years, or greater interval, as determined by the Director. ()

e. Where in the opinion of the Director, embankment design or conditions warrant, the owner may be required to instrument their embankment or foundation. ()

02. Top Width. The minimum top width for any embankment shall be twelve (12) feet to allow safe access by wheeled vehicles or tracked equipment for maintenance or repair. ()

03. Cutoff Trenches or Walls. Cutoff trenches shall be excavated into competent foundation material to bear on an approved stratum or zone. ()

a. The cutoff trench shall be backfilled with suitable material free from organic matter and debris and compacted to the specified moisture and density. The cutoff trench shall extend up the sides of both abutments to the design maximum storage elevation. ()

b. Cutoff trenches shall be wide enough to allow the free movement of excavation and compaction equipment. To provide for proper compaction side slopes shall be no steeper than one to one (1:1) for shallow depths up to twelve (12) feet, and no steeper than one and one half to one (1.5:1) for greater depths. Flatter slopes may be required for safety and stability, as determined by the Director. ()

c. Concrete cutoff walls may be used in a similar manner as cutoff trenches, with the base firmly entrenched in the underlying foundation material. Where suitable bedrock or suitable foundation material exists, concrete cutoff walls shall be doweled with steel rebar a minimum depth and spacing determined by the engineer necessary to create a structural bond with the underlying foundation. Concrete walls shall have a minimum vertical projection above the foundation surface of three (3) feet, oriented perpendicular to the surface, and shall have a minimum thickness of twelve (12) inches. Reinforcement of the concrete may be required in addition to being doweled into suitable foundation material(s). ()

04. Impervious Core Material. Soils used to construct the inner sectional core of an embankment shall consist of relatively impervious cohesive materials approved by the engineer and compacted in strict accordance with the approved plans and specifications. A minimum ninety-five percent (95%) maximum dry density compacted in accordance with the American Society Testing Materials (ASTM) D-698 is required. The use of other relatively impermeable however non-cohesive material is subject to approval by the Director on a case-by-case basis. ()

05. Drains. Toe, blanket, or chimney drains consisting of approved free draining material or approved manufactured drainage geotextile shall be installed where necessary to maintain the phreatic line at or near the design level(s) within the embankment. ()

a. Filter design for toe, blanket, or chimney drains, or any combination thereof shall be included in the design plans and specifications submitted by the engineer for review and approval by the Director. ()

b. Perforated and slotted drainpipes must be four (4) inches diameter or greater and shall be surrounded by permeable drainage material equal to or greater than the outside pipe diameter. The maximum particle size of the drainage material shall be between one-half (1/2) inch to three-fourths (3/4) inch. Underdrains and collection pipes must be constructed of noncorrosive material, taking care to ensure slots and perforations are appropriately sized to avoid long-term migration of the drain material into the pipe. ()

06. Freeboard. The elevation of the top of the embankment shall be constructed and maintained above the design flood surcharge level, including the vertical height of wind generated waves estimated for the greatest distance of open water measured perpendicular to the major axis of the dam. Camber estimated for post-construction settlement shall be included in the design and incorporated in the construction of the top of the embankment. ()

a. The minimum freeboard shall be two (2) feet plus wave height as calculated for the design spillway flow capacity during passage of the one percent (1%) flood, or greater to equal the surcharge elevation of the reservoir during passage of the inflow design flood. ()

07. Riprap. All embankments which are subject to erosion on either the upstream and downstream slope(s) shall be protected using riprap or other approved material. Pipes, cables, brush, tree growth, dead growth, logs, or floating debris are not acceptable substitutes for approved riprap. The engineer, with approval of the Director, shall determine the extent of slope protection as deemed necessary for existing site, seasonal, and operating conditions. ()

a. Where rock riprap or other approved material is used for erosion protection on the upstream slope, it shall be placed on an approved thickness of well-graded and free-draining granular bedding material. Riprap or other approved erosion protection material shall extend up the slope a sufficient height. ()

08. Outlet Conduits. All reservoirs impounding water shall have an outlet conduit of sufficient

capacity to prevent interference with natural streamflow through the reservoir to the injury of downstream appropriators. In addition to any natural flow releases, the outlet conduit should be of sufficient capacity to pass at the same time, the maximum water requirement of the owner. A larger outlet conduit may be required to provide adequate release capacity as determined by the Director. ()

a. Outlet conduits shall be laid on a firm and stable foundation material to avoid the likelihood of differential settlement or consolidation causing the separation or misalignment of the conduit. Outlet conduits shall be encased on all sides by concrete of approved compressive strength and having a minimum thickness of twelve (12) inches. During construction outlet conduits shall be properly aligned on an established grade and adequately supported to prevent movement or damage caused by placement of concrete or by compaction equipment. ()

b. Unless otherwise required, the outlet conduit shall have a minimum inside diameter of twelve (12) inches. The conduits shall consist of approved material and composition as approved by the Director. Exceptions may be made only where conditions warrant, but in no case shall the reasonable life expectancy of the pipe be less than the design life of the embankment. ()

09. Gates and Valves. ()

a. Conduits shall be gated on the upstream end to avoid pressurizing the conduit inside the embankment. Pressurized conduits shall be fitted with both a guard gate and a control gate or valve. ()

b. All conduits shall be vented directly behind the gate. ()

c. All gate stem pedestals shall be securely founded to prevent future movement. ()

d. At least one (1) of the sides of the inlet structure shall be open to allow water to flow into the outlet conduit. The opening shall be covered with a trash rack. ()

e. Trash racks should be designed to facilitate cleaning of trash and debris. If fish screens are used, they shall be placed over the trash rack and shall be removable for cleaning or be self-cleaning. ()

10. Outlet Controls. Outlet controls shall be installed at a stable location, on the crest or on an elevated platform, or within an enclosure when required, but secured to prevent unauthorized operation. Reservoirs storing water during the winter and subject to severe freezing conditions shall have inclined gate stems or other controlling mechanical or hydraulic features enclosed in a protective sleeve which is buried beneath the upstream slope to suitable depth, to prevent damage or movement caused by ice. ()

11. Release Capacity. Based on the size of the dam and the downstream hazard classification assigned by the Director, the release capacity shall equal or exceed the inflow design flood as set forth in the following table. Where the table specifies an inflow design flood range, the governing inflow design flood shall be determined by the professional engineer in responsible charge of design and IDWR based on a site-specific review of the proposed dam, watershed conditions, and downstream hazard potential. The minimum flow capacity of the emergency spillway(s) shall be sized using the one-percent (1%) rate of flow (i.e., Q100 cfs) calculated for the contributing watershed upstream from the dam, plus two (2) feet of freeboard, plus wave height.

Hazard Classification	Size Classification	Inflow Design Flood (IDF)
Low	All Sizes	Q100
Significant	Small	Q100
	Intermediate	Q100 to Q500

Hazard Classification	Size Classification	Inflow Design Flood (IDF)
	Large	Q500
High	Small	Q100
	Intermediate	Q500
	Large	Q500 to PMF

()

a. All spillways shall be stabilized for the discharge of flow using concrete, masonry, riprap, or sod, if not constructed in resistant rock. ()

b. For embankment dams, where site conditions allow, the spillway shall be constructed independent of the embankment. The spillway(s) shall guide the discharge of water away from the embankment. ()

c. The minimum base width of an open-channel spillway shall be ten (10) feet, or greater to allow access by mechanical equipment. Siphon pipes or pumps are not acceptable substitutes for an open-channel spillway. ()

d. The effective flow capacity of spillways shall be undiminished by bridges, fences, pipelines, or other obstructions. ()

e. The installation of stop logs or flashboards in the spillway is prohibited unless they are part of an approved design and included as an integral part of an approved operation plan. ()

12. Reservoir Site. Prior to filling the reservoir, the site shall be cleared of all woody material, growth or debris that is large enough to lodge in the spillway, or outlet works. ()

13. Inspection and Completion Reports. As construction proceeds, it is the responsibility of the engineer to submit test reports (e.g., soil material analyses, density tests, concrete strength tests, etc.) along with periodic inspection and progress reports to the Director. ()

a. Upon completion of construction the owner or his engineer shall provide the Director a written narrative account of all items of construction. Record drawings (i.e., as-builts or as-constructed drawings) and revised specifications shall be submitted to the Director to accurately reflect the completed project works. ()

b. The engineer, acting on behalf of and representing the owner, shall certify that the construction, reconstruction, enlargement, replacement, or repair of the embankment and appurtenances was completed in accordance with the record drawings and specifications. ()

051. – 059. (RESERVED)

060. EXISTING DAMS AND RESERVOIRS.

All dams and reservoirs regulated by the Department shall be operated and maintained to retain the existing structural dimensions, to resist deformations or movement, and to maintain the hydraulic capacity of the outlet works, spillway, and other discharge features as designed and constructed, or as otherwise required by these rules. ()

01. Analyses Required. The analyses required by Rule 035 shall apply to all existing dams when the Director specifically requires the analyses. Where applicable, non-embankment dams shall comply with the following criteria. ()

a. Every dam shall have an overflow spillway with a capacity that will pass an inflow design flood of one percent (1%) probability of occurrence (i.e., Q100) or more, with the reservoir or the impoundment full to the spillway crest while maintaining the freeboard required by Rule 050.06. ()

b. The Director may lessen or waive the spillway requirement for dams that demonstrate out-of-stream (off-channel) storage. ()

c. The release capability or discharge capacity can include the combined rates of flow for multiple appurtenances; for example, spillways, outlets, diversion facilities, or other constructed conveyance features. Approved operating procedures which can be shown to utilize upstream storage, diversion, and reservoir flood routing to reduce flood runoff events may also be considered. The remainder of the required release capacity, if any, may be met by the following: ()

i. Reconstruction, enlargement or addition of spillways, outlets, diversion facilities, or other constructed conveyance features. ()

ii. A showing acceptable to the Director that potential failure of the dam during a flood of the specified magnitude described in Rule 050.11 would be incrementally small in comparison to the flood being considered, and that the release of reservoir would not substantially increase downstream damages to life and property which are anticipated to result from any natural flood equal to or exceeding that magnitude. ()

iii. A showing acceptable to the Director that limiting physical factors unique to the project site exist that prevent construction of a spillway or other release capability mechanisms during a flood of the specified magnitude described in Rule 050.11, and provided the owner implements storage operational procedures, or restrictions, or provides for emergency warning to protect life and property. ()

d. Seismic loads shall be evaluated and applied to dam stability. The Director may require that evaluation of seismic loads for large and high hazard structures shall use the maximum ground motion/acceleration generated by the maximum credible earthquake. The Director may accept maximum ground motion/acceleration corresponding to specified return intervals using a probabilistic evaluation of earthquake history in accordance with USGS hazard maps for any existing dam regardless of size or hazard potential. ()

e. The Director may accept existing studies relative to requirements of Rule 060.01.a. and Rule 060.01.d., if the Director determines the information provided fulfills the requirements of the rules. ()

f. The Director may allow the owner of an existing dam a compliance period to complete structural modifications or implement other improvements deemed necessary to provide the necessary hydraulic capability. ()

g. The Director may allow the owner of an existing dam a compliance period to complete structural modifications or implement other improvements deemed necessary to resolve seismic stability or safety concerns. ()

h. Within thirty (30) days after completing the analyses required in Rules 060.01.a. or 060.01.d., the owner of an existing dam found deficient by either analyses shall file with the Director a plan and schedule for mitigating the deficiency. ()

02. Other Requirements. ()

a. Routine maintenance items include the following: ()

i. Eradication of rodents and filling animal burrows; ()

ii. Removal of vegetation and debris from the dam; ()

iii. Restoring original dimensions of the dam by the addition of fill material; ()

- iv. Addition of bedding or riprap material which will not increase the height or storage capacity; ()
- v. Repair or replacement of gates, gate stems, seals, valves, lift mechanisms or vent pipes with similar equipment; or ()
- vi. Repair or replacement of wingwalls, headwalls or aprons including spalling concrete. ()
- b.** The following are not routine maintenance items and are subject to design review and approval prior to commencing construction: ()
 - i. Alteration or modification of embankment slopes; ()
 - ii. Replacement, reconstruction, or extension of outlets; ()
 - iii. Foundation stabilization; ()
 - iv. Filter or drain construction or replacement; ()
 - v. Spillway size alteration or modification; ()
 - vi. Installation of instrumentation or piezometers; or ()
 - vii. Release capability or reservoir storage modification. ()
- c.** Items not specifically described in Rules 060.02.a. and 060.02.b. will be determined by the Director as either routine or non-routine upon receipt of a written request from the owner or his representative seeking such a determination. ()
- d.** Where riprap is required to prevent erosion and to maintain a stable embankment, pipes, cables, brush, tree growth, logs, or floating debris are not acceptable substitutes for rock riprap and granular bedding material. Dams or portions thereof which are stable without riprap, are not required to have riprap. ()
- e.** Upon completion of reconstruction of a dam or feature of a dam included in Rule 060.02.b., the owner or his engineer shall provide the Director a written narrative account of all items of work. Record drawings and revised specifications shall be submitted to the Director if the completed project has been substantially changed from the plans and construction specifications originally approved. ()
- f.** Upon request, the owner of every dam shall provide his name and address to the Director and shall advise the Director of future changes in ownership. If the owner does not reside in Idaho, the owner shall provide the name and address of the person residing in Idaho who is responsible for the operation, maintenance, and repair of the dam. ()

061. – 064. (RESERVED)

065. DAMS STORING TAILINGS AND WATER.

New or existing mine tailings impoundment structures intended to store fifty (50) acre-feet or more of water above the surface of the tailings material shall meet the applicable requirements specified in Rules 035, 045, and 060 of these rules and IDAPA 37.03.05, “Mine Tailings Impoundment Structure Rules.” The Director may waive applicable requirements in Rule 035, 045, or 060 if, in the opinion of the Director, sound engineering design provided by the owner indicates such requirements are not applicable. ()

066. – 999. (RESERVED)

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES /
IDAHO WATER RESOURCE BOARD**

37.03.10 – WELL DRILLER LICENSING RULES

DOCKET NO. 37-0310-2201 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized pursuant to §§ 42-238, 42-1734(19), and 42-1805(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 19, 2022.

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.

The Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) (the “Agencies”) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This rule chapter was scheduled for review in 2022.

With this Notice, the Agencies propose a new chapter of well driller licensing rules. The new chapter is approximately 30% shorter than the existing well driller licensing rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule come through a combination of (a) removal of obsolete provisions (such as Rule 21 Construction and Use of Holes that are Not Wells), (b) removal of unnecessary provisions (such as the definition and use of the term “responsible charge”), and (c) modifications to existing rules governing the “experience requirements” to obtain a well drilling license.

Pursuant to the ZBR process, this Notice represents the promulgation of a new rule chapter. As a result, the proposed rule does not contain strike-out/underline text in legislative format. The old rule has been repealed and replaced in its entirety. However, the development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2022-2023/>. At the same website, the Agencies also developed and published rulemaking support documents, which provide the Agencies’ recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

Citizens of the state of Idaho, water users, governmental agencies, and environmental groups may be interested in commenting on the proposed rule text. After consideration of public comments received in response to this Proposed Rule, the Agencies will present the final rule text to the Idaho Legislature in the late fall of 2022.

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

IDAPA 37.03.10 establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. The rules also implement the application licensing fees set forth in Idaho Code § 42-238.

FISCAL IMPACT STATEMENT: 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 § 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, pages 51-52](#).

INCORPORATION BY REFERENCE: Pursuant to § 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Mathew Weaver at mathew.weaver@idwr.idaho.gov, (208) 287-4800.

Anyone can submit written comments regarding this proposed rule by mail to the address below or by email sent to rulesinfo@idwr.idaho.gov. The Department will consider all written comments received by the undersigned on or before October 26, 2022.

Dated this 2nd day of September 2022

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720-0098
Phone: (208) 287-4800

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 37-0310-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

37.03.10 – WELL DRILLER LICENSING RULES

000. LEGAL AUTHORITY (RULE 0).

Section 42-238, Idaho Code. ()

001. SCOPE (RULE 1).

These rules establish the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. ()

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

Unless the context otherwise requires, the following definitions govern these rules. ()

01. Abandonment. See Decommissioned Well. ()

02. Applicant. An individual who submits to the Department a complete application for a license or operator's permit or a company that submits a complete application for a license. ()

03. Area of Drilling Concern. An area designated by the director in accordance with Section 42-238, Idaho Code, within which special drilling procedures and equipment are needed to prevent waste or contamination of

- the ground water. ()
- 04. Board.** The Idaho Water Resource Board. ()
- 05. Bond.** A cash or surety bond obtained by a licensed driller or company (the principal) payable to the director (the obligee) to provide funding for decommissioning or repair should the driller fail to comply with well construction standards, and to allow information to be collected concerning the drilling of the well if the driller fails to submit a timely, accurate driller's report. ()
- 06. Bottom Hole Temperature of an Existing or Proposed Well.** The temperature of the ground water encountered in the bottom of a well or borehole. ()
- 07. Company.** A firm, co-partnership, corporation, or association licensed in accordance with these rules to drill or contract to drill wells. ()
- 08. Compliance History.** An applicant's record of compliance with the laws and rules of Idaho and other states relating to drilling of wells. ()
- 09. Continuing Education.** Education or training pertinent to the drilling industry and the construction, modification or decommissioning of wells. ()
- 10. Continuing Education Committee (CEC).** A committee whose purpose is to review and approve activities related to continuing education credit. ()
- 11. Decommissioned (Abandoned) Well.** Any well which has been permanently removed from service and filled or plugged in accordance with these rules. A properly decommissioned well will not: ()
- a. Produce or accept fluids; ()
 - b. Serve as a conduit for the movement of contaminants inside or outside the well casing; or ()
 - c. Allow the movement of surface or ground water into unsaturated zones, into another aquifer, or between aquifers. ()
- 12. Department.** The Idaho Department of Water Resources. ()
- 13. Director.** The director of the Idaho Department of Water Resources or his duly authorized representative. ()
- 14. Drilling or Well Drilling.** The act of constructing a new well, or modifying the construction, or decommissioning of an existing well. ()
- 15. Drilling Permit.** Authorization by the Department to drill a well as provided in Section 42-235, Idaho Code. ()
- 16. Drilling Site.** The location of the drill rig and immediate area where the drill rig and auxiliary equipment are set up to drill a well. ()
- 17. Global Positioning System (GPS).** A global navigational receiver unit and satellite system used to triangulate a geographic position. ()
- 18. License.** A certificate issued by the director to an individual or a company upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the drilling of wells permitted in accordance with Section 42-235, Idaho Code. ()
- 19. Licensed Driller.** An individual having a license to drill wells and who is authorized to supervise operators in the state of Idaho to assure compliance with well construction standards. ()

- 20. Modify.** To deepen a well, increase or decrease the diameter of the casing or the well bore, install a liner, place a screen, perforate existing casing or liners, alter the seal between the casing and the well bore, or alter the well from its original construction. ()
- 21. Operator.** Any person authorized to operate drilling equipment for a licensed company or licensed driller after obtaining an operator's permit from the Director. ()
- 22. Operator's Permit.** A certificate issued by the director upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the holder to operate drill equipment. ()
- 23. Principal Driller.** A licensed driller designated by a company to supervise the company's drilling operations and activities. ()
- 24. Start Card.** An expedited drilling permit for the construction of cold-water Single Family residential wells. ()
- 25. Well.** An artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is obtained for the purpose of these rules. Well also means any waste disposal and injection well as defined by Section 42-3902, Idaho Code. ()
- 26. Well Construction Standards.** IDAPA 37.03.09, "Well Construction Standards Rules," adopted by the board. ()
- 27. Well Driller's Report or Driller's Report.** A report required by Section 42-238, Idaho Code, describing drilling of the well and supplying information required on forms provided by the Department. ()
- 28. Well Log.** A diary maintained at the drilling site consistent with Section 42-238, Idaho Code. ()
- 29. Well Rig or Drill Rig.** Any power-driven percussion, rotary, boring, digging, jetting, augering, or any other power-driven mechanical equipment used in the drilling of a well. ()

011. -- 019. (RESERVED)

020. LICENSE APPLICABILITY (RULE 20).

- 01. Wells to be Drilled by Licensed Drillers.** A well shall only be drilled by a licensed driller, or an operator working under the supervision of a licensed driller except that a property owner, who is not licensed, can construct a well on his property for his own use without the aid of power-driven mechanical equipment. ()
- 02. Operators to Have Permits.** Any person authorized to operate drilling equipment under the supervision of a licensed driller shall possess an operator's permit as provided in these rules. ()
- 03. Company to be Licensed.** No company shall drill or contract to drill a well or wells unless the company has been issued a license and has employed a principal driller as described in accordance with these rules. ()
- 04. Decommissioning Wells.** Only licensed drillers and operators may decommission wells, except that wells may be decommissioned by the owner after receiving a specific waiver from the Director. ()

021. -- 029. (RESERVED)

030. OBTAINING A DRILLER'S LICENSE (RULE 30).

01. Experience Requirements. ()

a. An applicant for a driller's license shall submit evidence to establish a minimum of twenty-four (24) months of drilling experience. Twelve (12) of the twenty-four (24) months of drilling experience must have occurred within the five (5) year period immediately preceding the filing of the application. An applicant will be credited with one (1) month of drilling experience for each one hundred sixty (160) hours of employment as a driller or operator, or the equivalent, as determined by the director. Experience drilling monitoring wells, geothermal wells or other cased wells will be credited as experience by the Director if the equipment and drilling methods are applicable to water well construction. ()

02. Application Requirements. An individual desiring a license shall file with the Department a completed application on a form provided by the Department accompanied by the following: ()

a. The application fee required by Section 42-238, Idaho Code. ()

b. Written documentation of drilling experience and compliance history. ()

c. Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twelve (12) months of drilling experience. The director will determine the number of months of classroom study, up to twelve (12), to be credited as experience. ()

d. The names and addresses of up to three (3) references to confirm the applicant's drilling experience may be requested at the Department's discretion. ()

03. Examination. An applicant determined by the director to have adequate experience and an acceptable compliance history, as confirmed by references acceptable to the director, is eligible to take a written examination. ()

031. OBTAINING A COMPANY LICENSE (RULE 31).

01. Application Requirements. A company shall file with the Department a complete application for a company license upon a form provided by the Department to be accompanied by the following: ()

a. The names and addresses of up to three (3) persons not affiliated with the company, whom the Department can contact for information regarding the company's past well drilling operations, may be requested at the Department's discretion. ()

b. Designation of a principal driller who shall be a full-time employee of the company and shall drill wells only for the company. A licensed driller who renders only occasional, part-time or consulting drilling services to or for a company may not be designated as the principal driller. ()

c. The names and addresses of drillers and operators presently employed. ()

032. OBTAINING AN OPERATOR'S PERMIT (RULE 32).

01. Experience Requirements. ()

a. An applicant for an operator's permit shall submit evidence to establish a minimum of 600 hours of well drilling experience acquired while in the presence of a licensed driller or operator. Evidence may include but is not limited to: payroll information, daily logs signed by a licensed driller or operator, or other documentation approved by the Director. ()

02. Application Requirements. An individual desiring an operator's permit shall file with the Department a completed application on a form provided by the Department accompanied by the following: ()

a. The fee required by Section 42-238, Idaho Code. ()

b. Attendance records, completion certificates, or other documents that verify attendance and completion of two (2) continuing education credit hours, approved by the CEC, earned while in training to become an operator. ()

03. Written Examination. Applicants for an operator's permit shall pass an examination pursuant to these rules. ()

04. Operator Drills Only for Licensed Driller or Company. An operator shall drill only for the licensed driller or company approved by the director. If an operator changes employment to another licensed driller or company, a new operator's permit application or transfer form shall be filed as provided in this rule. ()

033. PROCESSING APPLICATION FOR A DRILLER'S LICENSE OR OPERATOR'S PERMIT (RULE 33).

01. Incomplete Application. If an application is incomplete, not properly signed, or does not include the information required by these rules, the Department will advise the applicant in writing of the deficiency. If the deficiencies are not satisfied within ninety (90) days of sending the notice of the deficiency, the application will be void. The application fee is not refundable. ()

02. Issuance of License. If the director, upon review of the application, determines that an applicant for license is qualified and the driller has subsequently taken and passed an examination, a notice will be sent to the applicant requesting a bond, in an amount determined in accordance with Rule 60, be filed with the Department. Upon receipt of a satisfactory bond, the director will issue a license to the applicant. ()

03. Issuance of Operator's Permits. The Department will mail a notice and operator's permit card to the principal driller on behalf of the applicant if the application is complete and the applicant meets the qualifications described in these rules. ()

04. Driller's License or Operator's Permit Issued With Conditions or Denial of License or Operator's Permit. The Director may issue a license or operator's permit with specific conditions or limitations based on the applicant's experience and compliance history. The Director may refuse to issue or renew a driller's license permanently or for a designated period if the driller has previously constructed wells improperly or constructed a well without a valid driller's license. If the Director determines that the applicant is not qualified, the Director will deny the application. Notice of a denied application or a conditioned license or operator's permit will be given to the applicant in accordance with IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." ()

034. EXAMINATION PROCEDURES (RULE 34).

01. Written Examination. Written examinations will be offered at Department offices on the first Monday of each quarter. If the first Monday is a legal holiday, written examination will be offered on the first Tuesday. Re-examination may be taken at a regularly scheduled examination date during a following quarter and shall be scheduled with the Department office originally testing the applicant. ()

02. Verbal or Oral Examination. Successful passage of a verbal examination may satisfy all or a part of the written testing requirements under the following circumstances: ()

a. The applicant requests a verbal examination and shows cause acceptable to the director why the examination should be verbal rather than written. Applicants desiring to take the examination verbally shall request that a verbal examination be scheduled allowing at least fifteen (15) days to set an examination date. ()

b. The director determines that because of the applicant's compliance history, additional testing is needed to determine the applicant's qualifications. ()

03. Examination Scoring. A score of seventy percent (70%) or higher is a passing score. ()

04. Assistance Must Be Authorized. The use of written materials, equipment, or other individuals to

assist an applicant during an examination is prohibited unless specifically authorized by the Department. An applicant receiving unauthorized assistance during an examination may be disqualified and the application may be rejected. An application filed by a disqualified applicant will not be processed for a period of up to one (1) year from the time of disqualification. ()

035. EXPIRATION AND RENEWAL OF DRILLER LICENSES AND OPERATOR PERMITS (RULE 35).

01. Expiration of Licenses and Permits. All driller licenses and operator permits expire at the end of the licensing period for which they are issued. The licensing period begins April 1 and ends March 31 of the second year following issuance. ()

02. Renewal Application. A license or operator permit may be renewed by submitting a renewal application including the following: ()

a. A completed application on a form provided by the Department. An application for renewal shall be signed by the principal driller. ()

b. The renewal fee required by Section 42-238, Idaho Code. ()

c. A new bond or continuation certificate for an existing bond covering all drillers and operators employed by the company. ()

03. Continuing Education Requirements. Credit hours not to exceed twenty (20) are required for renewal of a driller license or operator permit for any licensing period. ()

036. PROCESSING APPLICATION TO RENEW LICENSE OR OPERATOR'S PERMIT (RULE 36).

01. Processing Applications for Renewal. The Department shall receive a complete application for renewal no later than March 15 to assure that the license or operator's permit will remain in force without interruption. If the director determines that the application is complete and the applicant is qualified, the license or operator's permit will be renewed for the period ending on March 31 of the second year after approval of the renewal. ()

02. Regulatory Compliance Required for Renewals. A license or operator's permit will not be renewed if the applicant has not submitted all required driller's reports, applications for drilling permits, fees, agreed civil penalties, has not complied with all orders requiring repair or decommissioning of improperly constructed wells or is not otherwise in compliance with Sections 42-235 and 42-238, Idaho Code, and the applicable rules. ()

03. Compliance History. If the Director determines that the applicant has exhibited an unacceptable compliance history, the Director may deny renewal, refuse renewal for a specified time, or renew with conditions, including but not limited to an increased bond amount. ()

04. Renewal of Expired Licenses or Operator's Permits. A license or an operator's permit which has expired or otherwise not been in effect for a period not exceeding three (3) years shall be renewed in accordance with the requirements of Rule 35. An applicant for renewal shall provide verification of earned credit hours required for the entire period since the license or operator's permit was last issued. If a license or operator's permit has been expired or otherwise not effective for a period of more than three (3) years, a new application shall be submitted in accordance with these Rules. The director may waive the examination requirement if the applicant has been previously licensed or permitted in the state of Idaho. ()

05. Reuse of Identification Numbers. The identification number assigned to a license by the Department will not be reused if the license has been expired or otherwise not in effect for three (3) years or more except, at the director's discretion, the number may be reissued to the original owner. ()

06. Condition or Denial of an Application for Renewal. If the Director determines that the applicant has not or cannot fully comply with these rules, a license or operator's permit may be issued with conditions. If the

Director determines that the applicant is not qualified or has documented violations of well drilling laws and/or rules, the Director will deny the application. When there are documented violations of well drilling laws and/or rules, including well construction standards, the Director may issue a conditional license or operator's permit or deny an application based on the applicant's compliance history. Notice of a denied application or a conditioned license will be given as provided in IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." ()

037. -- 049. (RESERVED)

050. DUTIES AND RESPONSIBILITIES OF DRILLERS, COMPANIES AND OPERATORS (RULE 50).

- 01. Licensed Drillers and Principal Drillers.** All licensed drillers and principal drillers shall: ()
 - a.** Allow drilling only by those authorized by and under the supervision required by these rules and according to any conditions of the license or permit. ()
 - b.** Complete each well in compliance with IDAPA 37.03.09, "Well Construction Standards Rules," and drilling permit conditions. ()
 - c.** Maintain a valid cash or surety bond, as defined in Rule 60. ()
 - d.** Display the driller or company license number in a conspicuous place on the drill rig using a metal identification plate issued by the Department or other permanent marking approved by the director. If requested by the applicant, one plate will be issued upon initial licensure. Replacement plates or additional plates are available for a fee. ()
 - e.** Keep current the Department's list of operators and drillers employed by the licensed driller or company, including current addresses for the company, drillers, and operators. The licensed driller or principal driller shall be held responsible for all drilling activity of a driller or operator under their supervision until such notification has been submitted in writing to the Department that the driller or operator is no longer employed by the licensed driller or company. ()
 - f.** Have at the drilling site the driller's license and drilling permit or other written authorization from the director to drill the well. ()
 - g.** Obtain specific written authorization from the director to drill: ()
 - i.** In contaminated areas identified by the Department; ()
 - ii.** In areas of drilling concern designated by the Department; ()
 - iii.** A public drinking water supply well, as defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; ()
 - iv.** Low temperature geothermal resource wells; and ()
 - v.** Geothermal resource wells. ()
 - h.** Monitor and record bottom-hole temperature in areas where low temperature geothermal resources are known or suspected or when the well is being constructed pursuant to IDAPA 37.03.09, Rule 30, as a low temperature geothermal resource well. Bottom-hole temperature of every well being constructed pursuant to IDAPA 37.03.09, Rule 30, must be measured, recorded, and reported on the well drillers report. ()
 - i.** Maintain a daily well log at the drilling site acceptable to the Department and as required by Section 42-238(11), Idaho Code. Pertinent data required to be recorded on the daily log must include information sufficient to complete a well drillers report acceptable to the Director. The driller shall retain the well log for at least one (1) year after the driller's report is submitted to the Department. ()

j. Submit driller's reports, acceptable to the Director, on forms approved by the Department within thirty (30) days following removal of the drill rig from the drilling site at completion of the well. Driller's reports shall be prepared from information recorded on the daily well log. Driller's reports returned to the driller due to deficiencies must be corrected and returned to the Department within thirty (30) days of mailing by the Department. ()

k. Attach a well tag supplied by the Department to every well drilled for which a drilling permit is required. The tag shall be affixed permanently to the casing, or other permanent object attached to the well, by a method approved by the Director prior to removing the well rig from the drilling site. ()

l. Cause all drilling activity under the supervision of the driller to cease when the driller's license expires, becomes invalid, or is suspended or revoked. ()

02. Companies. Companies shall: ()

a. Have a principal driller always designated with the Department and keep current the Department's contact information to include a valid phone number for the principal driller. ()

b. Notify the Department within ten (10) days of the principal driller leaving employment with the company. The company's license shall immediately become void and of no effect when the principal driller leaves employment with the company and shall remain so until the Department has been notified in writing that a new principal driller has been employed and designated by the company. Failure to designate a principal driller within ninety (90) days of the departure of the designated principal driller is cause for the director to take action to cancel the company's license. ()

c. Always maintain a bond as required in Rule 60. ()

03. Operators. Operators shall: ()

a. Have in their possession a valid operator's permit while operating drill rigs or drilling equipment. ()

b. Only drill wells as authorized by the operator's permit. ()

c. Maintain a complete and accurate well log at the drilling site. ()

d. Co-sign a driller's report with the licensed driller upon completion of the well. ()

051. -- 059. (RESERVED)

060. BONDING (RULE 60).

01. Bonding Requirements. Each licensed company shall submit a surety bond or cash bond in an amount determined by the director, within the limits of 42-238, Idaho Code, covering all drillers and operators employed by the company, payable to the director for the licensing period. If the licensed driller drills wells as an individual and not for a company, a separate bond must be filed with the director. ()

a. The amount of the bond will be determined by the director based on the applicant's compliance history, the size and depth of wells the applicant proposes to construct and is authorized to drill, the complexity of the wells, the resource to be recovered, the area of operation of the applicant, the number of drillers and operators employed by a company, and other relevant factors. ()

b. The amount of the bond required prior to drilling in an area of drilling concern, and/or drilling monitoring wells, public water supply wells, or wells with a bottom hole temperature meeting the definition of a low temperature geothermal resource as defined by Section 42-233, Idaho Code, shall be the maximum amount allowed

by Section 42-238, Idaho Code. ()

c. All bonds and continuation certificates shall commence on April 1 or date of licensure for a new company and be valid until March 31 of the year the driller or company license expires. Bonds and continuation certificates must be on a form approved or provided by the Department. ()

02. Cash Bonds. ()

a. Cash bonds shall be in a separate account readily accessible to the director for use as provided in these rules. The director will review cash bond proposals made by an applicant. Cash bonds shall be retained in financial institutions within the state of Idaho unless waived by the director. ()

b. The director will retain cash bonds for two (2) years from the date the driller requests that the bond be released unless replaced by another bond or the director determines that all wells drilled by the driller satisfy well construction standards. The release of a cash bond must be requested in writing. ()

03. License Void Without Bond. If the surety cancels a bond, the bond expires or otherwise becomes non-effective during the term of a license, the license shall immediately become void and of no further effect until an adequate replacement bond is received by the Department. ()

061. -- 069. (RESERVED)

070. CONTINUING EDUCATION (RULE 70).

01. Requirements. Every licensed driller or operator must earn the applicable number of credit hours consistent with these rules. The credit hours must be obtained during the licensing period preceding the renewal application. ()

02. Earning Credit Hours. Credit hours may be earned for time spent in attendance at workshops, seminars, short courses, and other educational opportunities devoted to well drilling or related subjects acceptable to the Director or approved by the continuing education committee (CEC) in compliance with the CEC guidelines. These may include completion of college courses, correspondence courses, or online courses. ()

03. Documentation. Documentation in support of credit hours is the responsibility of each licensed driller and operator. Records required include but are not limited to: ()

a. A log showing the type of course or activity, sponsoring organization, duration, instructor's name, and credit hours. ()

b. Attendance verification records in the form of completion certificates or other official documents providing evidence of attendance and completion. ()

04. Submittal and Maintenance of Records. Copies of continuing education records for the preceding license period shall be submitted with applications to renew licenses or permits. These records shall be maintained by the applicant for a period of three (3) years and shall be available for review by the Department at the request of the director. ()

05. Insufficient Credit Hours. If at the time of renewal, the applicant is unable to provide verification of the required credit hours, the director will deny renewal of the driller's license or operator's permit, except as follows: ()

a. The director may withhold action on an application for renewal for a period not to exceed ninety (90) days to allow the applicant to provide verification of the required credit hours. The applicant is not authorized to drill until the verification is provided and the renewal is issued. ()

b. The director may exempt an applicant from all or part of the continuing education requirements if the applicant served on active duty in the armed forces of the United States for one hundred twenty (120) consecutive

days or more during the licensing period prior to filing the application for renewal; or the applicant suffered physical disability, serious illness, or other extenuating circumstances that prevented the applicant from earning the required units. ()

06. Out-of-State Residents. The continuing education requirements for a driller's license or operator's permit are the same for both resident and non-resident applicants. ()

07. Responsibility for Education Development and Implementation. The Department's responsibility to develop and implement a program for continuing education may, at the Director's discretion, be delegated through a memorandum of understanding (MOU) and/or contract to external providers such as the Idaho Ground Water Association (IGWA). ()

071. -- 089. (RESERVED)

090. ENFORCEMENT (RULE 90).

01. Violations. Violations of these rules or Sections 42-235 or 42-238, Idaho Code, will be enforced as provided in Sections 42-238 and 42-1701B, Idaho Code. ()

02. Enforcement Procedures. Department procedures and guidance for administrative enforcement are published on the Department's website and available upon request. ()

091. -- 999. (RESERVED)

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

*The proposed rule public hearing request deadline is October 19, 2022, unless otherwise posted.
The proposed rule written comment submission deadline is October 26, 2022, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE 2270 Old Penitentiary Rd, PO Box 7249, Boise, ID 83707

02-0425-2201, Rules Governing Private Feeding of Big Game Animals. Chapter repealed; necessary provisions moved to 13-0118-2201.

IDAPA 08 – STATE BOARD OF EDUCATION 650 W State St, PO Box 83720, Boise, ID 83720-0037

08-0111-2201, Registration of Postsecondary Educational Institutions and Proprietary Schools. Zero Based Regulation (ZBR) chapter rewrite sets requirements for the registration of postsecondary educational institutions and proprietary schools required to register with the Board.

08-0113-2201, Rules Governing the Opportunity Scholarship Program. ZBR Chapter Rewrite establishes eligibility, application, and selection process for the Opportunity Scholarship Program.

08-0202-2201, Rules Governing Uniformity. Amendments clarify certification requirements for certificated staff and certification and endorsement requirements due to legislative changes; and transportation reimbursement requirements for alternative fuel buses.

08-0203-2201, Rules Governing Thoroughness. Changes remove incorporated documents for achievement, development, and performance level descriptors and standards and are moved to online format; adds computational thinking to elementary and middle school instructional requirements; updates financial literacy graduation requirements; adds a computer science graduation requirement; updates and restructures accountability framework to include chronic absenteeism as school measurable; moves the parent and student survey; and aligns student safety policies with Idaho statute.

08-0204-2201, Rules Governing Public Charter Schools. ZBR chapter rewrite provides public charter schools an application and review process.

08-0301-2201, Rules of the Public Charter School Commission. ZBR chapter repealed; necessary provisions moved to 08-0204-2201.

IDAPA 11 – IDAHO STATE POLICE 700 S Stratford Dr, Meridian, ID 83642

11-0401-2201, Rules Governing the Idaho State Racing Commission. ZBR Chapter Rewrite contains all governing functions of the Commission to include; licensing fees and procedures; the controlled substance and alcohol testing of licensees and applicants; disciplinary hearings and appeals; racing associations conduct and licensing; racing officials governance; conduct of owners, trainers, authorized agents, jockeys, apprentice jockeys, and jockey agents; licensed veterinarians practices; permitted medication and drug testing of horses; live horse racing, procedures for claiming races; Pari-mutuel wagering; regulating all aspects of simulcasting; and rules governing advanced deposit wagering.

11-0402-2201, Rules Governing Simulcasting. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0403-2201, Rules Governing Licensing and Fees. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0404-2201, Rules Governing Disciplinary Hearings and Appeals. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0405-2201, Rules Governing Advanced Deposit Wagering. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0406-2201, Rules Governing Racing Officials. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0407-2201, Rules Governing Racing Associations. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0408-2201, Rules Governing Pari-Mutuel Wagering. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0409-2201, Rules Governing Claiming Races. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0410-2201, Rules Governing Live Horse Races. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0411-2201, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0413-2201, Rules Governing the Idaho State Racing Commission. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0414-2201, Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

11-0415-2201, Rules Governing Controlled Substance and Alcohol Testing of Licensees and Applicants. ZBR Chapter Repeal, necessary provisions moved to 11-0401-2201.

***11-1001-2201, Rules Governing Idaho Public Safety and Security Information System.** (*PH) Increases user access fees for ILETS System.

11-1003-2201, Rules Governing the Sex Offender Registry. Reinstates a statutorily required rule for expunging records of a deceased persons.

11-1101-2201, Rules of the Idaho Peace Officer Standards and Training Council. Changes fix omitted in-service training requirement for certified Detention officers; and correct a requirement for Misdemeanor Probation experience as qualifying for advanced certifications.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

600 S Walnut St, PO Box 25, Boise, ID 83707

13-0102-2201, Rules Governing Mandatory Education, Mentored Hunting, and Shooting Ranges. ZBR Chapter Rewrite addresses education for hunting, archery, and trapping, mentored hunting, and fees for shooting ranges and departmental education.

13.01.04 – Rules Governing Licensing

13-0104-2201, Rulemaking aims at balancing the outfitting industry through nonresident deer and elk tag allocation for sale to outfitted hunters.

13-0104-2202, Changes establish criteria and permitting process for the use of an electronic device to aid a blind or visually impaired hunter.

***13-0110-2201, Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife.** (*PH) ZBR Chapter Rewrite governs commercial and non-commercial importation, possession, release, sale, and salvage of wildlife.

13-0114-2201, Rules Governing Falconry. ZBR Chapter Rewrite establishes a falconry program in Idaho for federal certification.

13-0118-2201, Rules Governing Feeding of Wild Cervids. ZBR Chapter Rewrite regulates the feeding and Chronic Wasting Disease management of wild cervids to continue protection of the health of livestock, domestic cervids, domestic bison, and wildlife.

IDAPA 15 – OFFICE OF THE GOVERNOR

Idaho Commission on Aging – 6305 Overland Rd Ste 110, Boise, ID 83709

Division of Human Resources and Personnel Commission – 304 N 8th St, PO Box 83720, Boise, ID 83720-0066

***15-0102-2201, Rules Governing Adult Protective Services Programs.** (*PH) ZBR Chapter Rewrite relates to authority and responsibilities of Providers to administer adult protective services.

15-0401-2201, Rules of the Division of Human Resources and Idaho Personnel Commission. Rule changes comport with recent statutory amendments, simplify existing language, and reduce or eliminate unnecessary restrictions already addressed in statute.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

PO Box 83720, Boise, ID 83720-0036

**16-0317-2201, Medicare/Medicaid Coordinated Plan Benefits.* (*PH) ZBR Chapter Rewrite covers the benefit plan option for enrollees that are eligible for both Medicare and Medicaid.

**16-0612-2201, Idaho Child Care Program (ICCP).* (*PH) Proposed rule increases the federal poverty limit for child care assistance to allow for access to benefits.

IDAPA 17 – INDUSTRIAL COMMISSION

11321 W Chinden Blvd, Boise, ID 83714, PO Box 83720, Boise, ID 83720-0041

**17-1101-2201, Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act.* (*PH) ZBR Chapter Rewrite includes the application, payment, and dispute process for reimbursement from the Peace Office Temporary Disability Fund.

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

11341 W Chinden Blvd, Bldg 4, Boise, ID 83714

*(*PH) 24-0000-2201F* - the following fee chapters within DOPL that relate to health care are being reauthorized in this omnibus rulemaking: Title 03, Chapter 01; Title 06, Chapter 01 (with minor amendment); Title 09, Chapter 01; Title 10, Chapter 01; Title 11, Chapter 01; Title 12, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 17, Chapter 01; Title 19, Chapter 01; Title 23, Chapter 01; Title 24, Chapter 01; Title 26, Chapter 01; Title 27, Chapter 01; Title 31, Chapter 01; Title 33, Chapters 01, 02, 04-07; Title 34, Chapter 01; and Title 36, Chapter 01 (with minor amendment). Below lists Zero Based Regulation (ZBR) Chapters rewritten and included in this rulemaking:

- *24.10.01, Rules of the State Board of Optometry.* ZBR Chapter Rewrite governs the practice of optometry in Idaho to include licensing and registration, practice standards, discipline, and fees.
- *24.12.01, Rules of the Idaho State Board of Psychologist Examiners.* ZBR Chapter Rewrite governs the practice of psychology in Idaho to include licensure, educational credentialing requirements, practice standards, and fees.
- *24.17.01, Rules of the State Board of Acupuncture.* ZBR Chapter Rewrite establishes the minimum requirements for licensure/certification of acupuncturists to include continuing education, discipline, and fees.
- *24.23.01, Rules of the Speech, Hearing and Communication Services Licensure Board.* ZBR Chapter Rewrite outlines the licensure, practice standards, and fees for speech, hearing, and communication services in Idaho.
- *24.26.01, Rules of the Idaho Board of Midwifery.* ZBR Chapter Rewrite governs the licensure and regulation of the practice of midwifery.
- *24.34.01, Rules of the Idaho Board of Nursing.* ZBR Chapter Rewrite governs the standards of nursing practice, licensure, educational programs, and discipline in Idaho.

*(*PH) 24-0000-2202F* - the following fee chapters within DOPL that relate to occupations, building, construction, and real estate are being reauthorized in this omnibus rulemaking: Title 01, Chapter 01; Title 04, Chapter 01; Title 07, Chapter 01; Title 08, Chapter 01; Title 18, Chapter 01; Title 21, Chapter 01; Title 22, Chapter 01; Title 25, Chapter 01; Title 28, Chapter 01; Title 29, Chapter 01; Title 30, Chapter 01; Title 32, Chapter 01; Title 37, Chapter 01; and Title 39, Chapters 10, 20, 31, 40, 50, 70, 90 (with minor amendment). Below lists Zero Based Regulation (ZBR) Chapters rewritten and included in this rulemaking:

- *24.25.01, Rules of the Idaho Driving Businesses Licensure Board.* ZBR Chapter Rewrite implements the Idaho Driving Businesses Act through instructor and business licensing, continuing education, discipline, and fees.
- *24.30.01, Idaho Accountancy Rules.* ZBR Chapter Rewrite prescribes the administration of the certified public accountant examination, the issuance and renewal of licenses, registration of firms, and limitation of non-licensees.
- *24.39.20, Rules Governing Plumbing.* ZBR Chapter Rewrite prescribe criteria and fees for issuance of certificates of competency, plumbing permits, and inspections of plumbing installations, civil penalties, and adoption and amendment of the Idaho State Plumbing Code.
- *24.39.70, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems.* ZBR Chapter Rewrite establishes minimum standards for HVAC installation practice, certification, registration, and educational programs.

*(*PH) 24-0201-2200F, Rules of the State Athletic Commission* - the following fee chapter within DOPL is being reauthorized in this omnibus rulemaking: Title 02, Chapter 01.

*(*PH) 24-0501-2200F, Rules of the Board of Drinking Water and Wastewater Professionals* - the following fee chapter within DOPL is being reauthorized in this omnibus rulemaking: Title 05, Chapter 01.

*(*PH) 24-3801-2200F, Rules of the State of Idaho Board of Veterinary Medicine* - the following fee chapter within DOPL is being reauthorized in this omnibus rulemaking: Title 38, Chapter 01.

IDAPA 35 – IDAHO STATE TAX COMMISSION**11321 W Chinden Blvd, Bldg 2, Boise, ID 83714, PO Box 36, Boise ID 83722-0036*****35.01.01 – Income Tax Administrative Rules***

35-0101-2201, 1 of 2 ZBR Chapter Rewrite provides Commission the full jurisdictional authority to impose tax on income from Idaho sources.

35-0101-2202, 2 of 2 ZBR Chapter Rewrite changes the way business income is apportioned from a three-factor to a single-sales factor method. Also changes from a cost-of-performance method to market-based sourcing when taxing multistate income.

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES**322 E Front St, PO Box 83720, Boise, 83720-0098**

37-0203-2201, Water Supply Bank Rules. ZBR Chapter Rewrite provides Board rules when considering purchase, sale, lease, or rental of natural flow or stored water; use of any generated funds; and appointment of local committees to facilitate leasing of water from a rental pool.

37-0304-2201, Drilling for Geothermal Resources Rules. ZBR Chapter Rewrite establishes the framework for the drilling, operation, maintenance, and abandonment of all geothermal wells in the state.

37-0305-2201, Mine Tailings Impoundment Structures Rules. ZBR Chapter Rewrite includes minimum design criteria for all mine tailings impoundment structures designed for installation in Idaho.

37-0306-2201, Safety of Dams Rules. ZBR Chapter Rewrite establishes acceptable standards for design and construction, and guidelines for evaluating the safety of new or existing dams.

37-0310-2201, Well Driller Licensing Rules. ZBR Chapter Rewrite details requirements for obtaining and renewing authorization to drill wells and operate drilling equipment in the state of Idaho.

NOTICE OF PROCLAMATION**IDAPA 13 – IDAHO FISH AND GAME COMMISSION*****13-0000-2200P6***, Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

Please refer to the Idaho Administrative Bulletin **October 5, 2022, Volume 22-10**, for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and agency contact information.

Issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov/

Office of the Administrative Rules Coordinator, Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: 208-334-3900; Email: adminrules@dfm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Office of the Administrative Rules Coordinator
Division of Financial Management
Office of the Governor*

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

*Office of the Administrative Rules Coordinator
Division of Financial Management*

March 31, 2022 – October 5, 2022

(PLR 2023) – Final Effective Date Is Pending Legislative Review in 2023

(eff. date)L – Denotes Adoption by Legislative Action

(eff. date)T – Temporary Rule Effective Date

SCR # – denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)

(This Abridged Index includes all active rulemakings.)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 01, Chapter 04; Title 02, Chapter 02; Title 04, Chapters 04, 15, 17, 29; and Title 06, Chapters 02, 05 – Bulletin Vol. 22-1

02.01.04, Rules Governing the Voluntary Idaho Preferred® Promotion Program

02-0104-2201 Adoption of Pending Fee Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

02-0104-2201 Notice of Temporary and Proposed Rule (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-7 (eff. 7-6-22)T

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 01, Chapter 04 – Bulletin Vol. 22-1

02.02.02, Rules Governing Grading and Controlled Atmosphere Storage of Apples

02-0202-2201 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

02-0202-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 02, Chapter 02 – Bulletin Vol. 22-1

02.04.04, Rules for Artificial Dairy Products

02-0404-2201 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

02-0404-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 04 – Bulletin Vol. 22-1

02.04.15, Rules Governing Beef Cattle Animal Feeding Operations

02-0415-2201 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

02-0415-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 15 – Bulletin Vol. 22-1

02.04.17, Rules Governing Dead Animal Movement and Disposal

02-0417-2201 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)

02-0417-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 17 – Bulletin Vol. 22-1

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02.04.29, Rules Governing Trichomoniasis

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02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 29 – Bulletin Vol. 22-1

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02-0602-2201 Notice of Proposed Rulemaking (ZBR Chapter Rewrite, Fee Rule), Bulletin Vol. 22-7

02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 06, Chapter 02 – Bulletin Vol. 22-1

02.06.05, Rules Governing Plant Disease and Quarantines

- 02-0605-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-10 (PLR 2023)
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02-ZBRR-2201 *Rules of the Idaho Department of Agriculture* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 06, Chapter 05 – Bulletin Vol. 22-1

02.06.33, Organic Food Products Rules

- 02-0633-2201** Notice of Temporary and Proposed (Fee) Rule, Bulletin Vol. 22-7 (eff. 5-4-22)T

02.08.01, Sheep and Goat Rules of the Idaho Sheep and Goat Health Board

- 02-0801-2201** Notice of Temporary and Proposed Rule (New Chapter, Fee Rule), Bulletin Vol. 22-7 (eff. 4-27-22)T

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08-0113-2201 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-7

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11.04.02, Rules Governing Simulcasting

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11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 02 – Bulletin Vol. 22-7

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11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 03 – Bulletin Vol. 22-7

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11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 08 – Bulletin Vol. 22-7

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11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 10 – Bulletin Vol. 22-7

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11-ZBRR-2201 *Rules of the Idaho State Racing Commission* – Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking – Negotiates Title 04, Chapter 11 – Bulletin Vol. 22-7

11.04.13, Rules Governing the Idaho State Racing Commission

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- 11-0415-2201 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 22-10
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- 16-0418-2201 Notice of Proposed Rulemaking (New Chapter), Bulletin Vol. 22-9

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