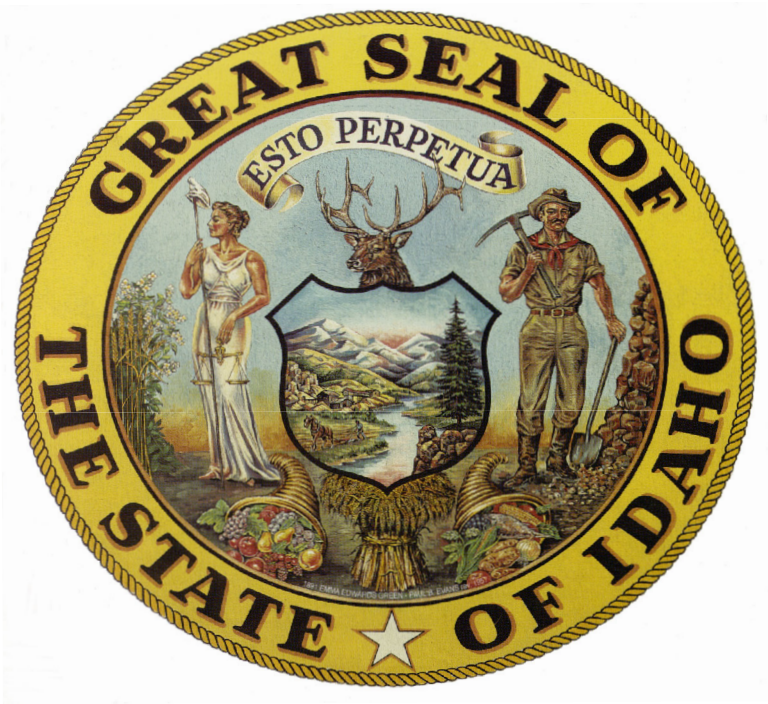
IDAHO ADMINISTRATIVE BULLETIN

September 3, 2025 – Vol. 25-9

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



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IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

September 3, 2025 – Vol. 25-9

PREFACE 4

THE OFFICE OF THE GOVERNOR

Executive Order No. 2025-05

The Idaho Act 11

IDAPA 15 – OFFICE OF THE GOVERNOR / IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15.02.30 – Business Enterprise Program

Docket No. 15-0230-2401 (ZBR Chapter Rewrite)

Notice of Public Hearing and Extension of Written Comment Period 13

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.13 – Consumer-Directed Services

Docket No. 16-0313-2501 (Chapter Repeal)

Notice of Rulemaking – Proposed Rule 15

16.04.14 – Low-Income Home Energy Assistance Program (LIHEAP)

Docket No. 16-0414-2501 (Chapter Repeal)

Notice of Rulemaking – Adoption of Pending Rule 17

16.04.17 – Residential Habilitation Agencies

Docket No. 16-0417-2501 (ZBR Chapter Repeal)

Notice of Rulemaking – Adoption of Pending Rule 18

16.06.02 – Foster Care Licensing

Docket No. 16-0602-2501

Notice of Rulemaking – Adoption of Pending Rule 19

16.06.03 – Daycare Licensing

Docket No. 16-0603-2501 (Chapter Rewrite)

Notice of Rulemaking – Adoption of Pending Rule 20

16.06.12 – Idaho Child Care Program (ICCP)

Docket No. 16-0612-2501 (ZBR Chapter Repeal)

Notice of Rulemaking – Adoption of Pending Rule 31

16.06.13 – Emergency Assistance for Families and Children

Docket No. 16-0613-2501 (Chapter Repeal)

Notice of Rulemaking – Adoption of Pending Rule 32

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.04 – Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

Docket No. 20-0304-2401 (ZBR Chapter Rewrite)

Notice of Rulemaking – Proposed Rule 33

IDAPA 21 – DIVISION OF VETERANS SERVICES
21.01.01 – Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure
Docket No. 21-0101-2501 (ZBR Chapter Rewrite)
Notice of Rulemaking – Adoption of Pending Rule 56

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION
26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities
Docket No. 26-0120-2501 (Fee Rule)
Notice of Rulemaking – Proposed Rule 57

IDAPA 35 – STATE TAX COMMISSION
35.01.02 – Idaho Sales and Use Tax Administrative Rules
Docket No. 35-0102-2501 (ZBR Chapter Rewrite)
Notice of Rulemaking – Proposed Rule 64
35.01.06 – Hotel/Motel Room and Campground Sales Tax Administrative Rules
Docket No. 35-0106-2501 (ZBR Chapter Rewrite)
Notice of Rulemaking – Proposed Rule 192

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION
38.04.04 – Rules Governing Capitol Mall Parking
Docket No. 38-0404-2501 (ZBR Chapter Rewrite)
Notice of Rulemaking – Proposed Rule 199

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.01 – Rules for the Control of Air Pollution in Idaho
Docket No. 58-0101-2501
Notice of Rulemaking – Proposed Rule 209
58.01.08 – Idaho Rules for Public Drinking Water Systems
Docket No. 58-0108-2501
Notice of Rulemaking – Proposed Rule 212
58.01.11 – Ground Water Quality Rule
Docket No. 58-0111-2501 (ZBR Chapter Rewrite)
Notice of Rulemaking – Proposed Rule 260
58.01.12 – Rules for Administration of Wastewater and Drinking Water Loan Funds
Docket No. 58-0112-2501 (ZBR Chapter Rewrite)
Notice of Rulemaking – Proposed Rule 279
58.01.16 – Wastewater Rules
Docket No. 58-0116-2501 (ZBR Chapter Rewrite)
Notice of Rulemaking – Proposed Rule 303

SECTIONS AFFECTED INDEX 372

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS 382

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES 384

SUBJECT INDEX 394

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 **22-1** refers to the first Bulletin issued in calendar year **2022**; Bulletin **24-1** refers to the first Bulletin issued in calendar year **2024**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **22-1** refers to January 2022; Volume No. **24-2** refers to February 2024; and so forth. Example: The Bulletin published in January 2022 is cited as Volume **22-1**. The December 2022 Bulletin is cited as Volume **22-12**.

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 Idaho 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. For a rule to become final, at a minimum, a rulemaking includes proposed, pending, and final rulemaking. Some rules may be adopted as temporary rules when they meet the required statutory criteria. Agencies must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. In some cases, the process may begin with proposed rulemaking and end 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. 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.

4. FINAL RULEMAKING

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

5. 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) reducing a regulatory burden that would otherwise impact individuals or businesses.

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.

Agencies must concurrently promulgate a temporary rule and a proposed rule when the text of the two rulemakings is the same, unless the temporary rule will expire before a proposed rule could become final.

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 38.05.01.041.02.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"

"041." refers to Major Section **041**, "Acquisition Procedures"

"02." refers to Subsection 041.**02**.

"**c.**" refers to Subsection 041.02.**c**.

"ii." refers to Subsection 041.02.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 "-", (**38-0501-2201**). 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. 38-0501-2201"

"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**).

"2201" 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 2022**. A subsequent rulemaking on this same rule chapter in calendar year 2022 would be designated as "**2202**". The docket number in this scenario would be 38-0501-**2202**.

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)

RULEMAKING DEADLINES CY 2025

BULLETIN MONTH / VOL.	FEB 25-2	MAR 25-3	APR 25-4	MAY 25-5	JUN 25-6	JUL 25-7	AUG 25-8	SEPT 25-9	OCT 25-10	NOV 25-11	DEC 25-12	JAN '26 26-1
ARRF DUE	Dec 20	Jan 24	Feb 21	Mar 21	April 18	May 23	June 20	July 18	Aug 15	Sept 19	Oct 24	Nov 21
AGENCY FILING DUE	Jan 3	Feb 7	Mar 7	April 4	May 2	June 6	July 3	Aug 1	*Aug 29	Oct 3	Nov 7	**Dec 5
BULLETIN PUBLISHED	Feb 5	Mar 5	April 2	May 7	June 4	July 2	Aug 6	Sept 3	Oct 1	Nov 5	Dec 3	Jan 7
21-DAY COMMENT ENDS	Feb 26	Mar 5	April 23	May 28	June 25	July 23	Aug 27	Sept 24	Oct 22	Nov 26	Dec 24	Jan 28

August 29, 2025: Last day to submit a Proposed Rule for the upcoming Legislature

****December 5, 2025: Last day to submit a Pending Rule for the upcoming Legislature***

RULEMAKING DEADLINES CY 2026

BULLETIN MONTH / VOL.	FEB 26-2	MAR 26-3	APR 26-4	MAY 26-5	JUN 26-6	JUL 26-7	AUG 26-8	SEPT 26-9	OCT 26-10	NOV 26-11	DEC 26-12	JAN '27 27-1
ARRF DUE	Dec 26	Jan 23	Feb 20	March 20	April 17	May 15	June 19	July 17	Aug 14	Sept 18	Oct 16	Nov 20
AGENCY FILING DUE	Jan 9	Feb 6	Mar 6	April 3	May 1	May 29	July 3	July 31	*Aug 28	Oct 2	Oct 30	**Dec 4
BULLETIN PUBLISHED	Feb 4	Mar 4	April 1	May 6	June 3	July 1	Aug 5	Sept 2	Oct 7	Nov 4	Dec 2	Jan 6
21-DAY COMMENT ENDS	Feb 25	Mar 25	April 22	May 27	June 24	July 22	Aug 26	Sept 23	Oct 28	Nov 25	Dec 23	Jan 27

August 28, 2026: Last day to submit a Proposed Rule for the upcoming Legislature

****December 4, 2026: Last day to submit a Pending Rule for the upcoming Legislature***

Access to DFM's Administrative Rules Request Form (ARRF)

Access the Idaho Rule Writer's Manual

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

IDAPA 38	**Administration**, Department of
IDAPA 62	**Administrative Hearings**, Office of
IDAPA 02	**Agriculture**, Idaho State Department of Idaho Honey Commission (02.06.16) Idaho Hop Grower's Commission (02.07) Idaho Sheep and Goat Health Board (02.08)
IDAPA 40	**Arts**, Idaho Commission on the
IDAPA 04	**Attorney General,** Office of the
IDAPA 53	**Barley Commission**, Idaho
IDAPA 51	**Beef Council**, Idaho
IDAPA 55	**Career Technical Education**, Division of
IDAPA 28	**Commerce**, Idaho Department of
IDAPA 06	**Correction**, Idaho Department of
IDAPA 63	**Domestic Violence and Victim Assistance**, Idaho Council on
IDAPA 08	**Education**, State Board of and State Department of
IDAPA 32	**Endowment Fund Investment Board**
IDAPA 58	**Environmental Quality**, Department of
IDAPA 12	**Finance**, Idaho Department of
IDAPA 13	**Fish and Game**, Idaho Department of
IDAPA 15	**Governor**, Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission (15.04) Idaho Military Division (Division of Homeland Security) (15.06) Idaho State Liquor Division (15.10)
IDAPA 48	**Grape Growers and Wine Producers Commission,** Idaho
IDAPA 16	**Health and Welfare**, Department of
IDAPA 45	**Human Rights Commission**
IDAPA 17	**Industrial Commission,** Idaho
IDAPA 18	**Insurance**, Idaho Department of
IDAPA 05	**Juvenile Corrections**, Department of

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

IDAPA 09	**Labor**, Idaho Department of
IDAPA 20	**Lands**, Idaho Department of
IDAPA 52	**Lottery Commission**, Idaho State
IDAPA 24	**Occupational and Professional Licenses**, Division of Accountancy, Board of (24.30) Acupuncture, Board of (24.17) Architects and Landscape Architects, Board of (24.01) Athletic Commission, State (24.02) Barber and Cosmetology Services Licensing Board (24.28) Building Safety, Division of (24.39) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho State (24.21) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Dentistry, State Board of (24.31) Denturitry, State Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Engineers and Land Surveyors, Board of Licensure of Professional (24.32) Genetic Counselors Licensing Board (24.24) Geologists, Board of Registration for Professional (24.04) Liquefied Petroleum Gas Safety Board (24.22) Massage Therapy, Board of (24.27) Medicine, Board of (24.33) Midwifery, Board of (24.26) Morticians, Board of (24.08) Naturopathic Health Care, Board of (24.40) Nursing, Board of (24.34) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, Board of (24.10) Outfitters and Guides Licensing Board (24.35) Pharmacy, Board of (24.36) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Real Estate Commission (24.37) Residential Care Facility Administrators, Board of Examiners of (24.19) Shorthand Reporters Board, Idaho Certified (24.29) Social Work Examiners, Board of (24.14) Speech, Hearing and Communication Services Licensure Board (24.23) Veterinary Medicine, State Board of (24.38)
IDAPA 43	**Oilseed Commission**, Idaho
IDAPA 50	**Pardons and Parole**, Commission of
IDAPA 26	**Parks and Recreation**, Idaho Department of

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

IDAPA 11	**Police,** Idaho State Alcohol Beverage Control (11.05) Brand Board (11.02) Commercial Vehicle Safety (11.13) Forensic Laboratory (11.03) Motor Vehicles (11.07) Peace Officer Standards and Training Council (11.11) Public Safety and Security Information (11.10) Racing Commission (11.04)
IDAPA 29	**Potato Commission**, Idaho
IDAPA 59	**Public Employee Retirement System of Idaho (PERSI)**
IDAPA 31	**Public Utilities Commission**
IDAPA 34	**Secretary of State**, Office of the
IDAPA 57	**Sexual Offender Management Board**
IDAPA 60	**Soil and Water Conservation Commission**, Idaho State
IDAPA 36	**Tax Appeals**, Board of
IDAPA 35	**Tax Commission**, State
IDAPA 39	**Transportation Department,** Idaho
IDAPA 21	**Veterans Services**, Division of
IDAPA 47	**Vocational Rehabilitation**, Division of
IDAPA 37	**Water Resources**, Department of
IDAPA 42	**Wheat Commission**, Idaho

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 2025-05

THE IDAHO ACT

WHEREAS, Idaho's economy is the strongest in the nation, and in recent years we have made historic investments in public education, transportation, water, and other infrastructure while delivering historic tax relief to the people of Idaho; and

WHEREAS, Idaho continues to attract people and businesses from other states because of our relentless focus on upholding the values of freedom, limited regulation, and lean government so we can prioritize what matters most to Idahoans, with education topping the list; and

WHEREAS, with the "Big Beautiful Bill," President Donald Trump delivered on his promise to cut taxes for American families, and my administration is dedicated to right-sizing state government to make way for the tax cuts; and

WHEREAS, Idaho leaders have delivered historic tax relief to working families over the past six years – including a 23 percent decrease in income taxes and billions of dollars in rebates and property tax relief – while making unprecedented investments in school facilities, teacher pay, and literacy, demonstrating we have it all: we can simultaneously cut taxes while meeting the needs of a growing state; and

WHEREAS, Idaho public schools now receive a billion dollars more per year in funding than when I took office, and state support for Idaho public schools has never been higher in the history of our great state, with a 63 percent increase in General Fund appropriations over the past six years and remarkable gains in student reading scores over the past year; and

WHEREAS, Idaho balances its budget not just because it is the right thing to do but because it is required by Article 7, Section 11 of the Idaho Constitution, which provides that expenditures of state government must not exceed state government revenue; and

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, do hereby order that:

Idaho will Further Improve Government Efficiency and Reduce Government Spending

1. *To ensure that state government continues to administer its business efficiently and effectively, all executive departments, offices, and institutions of the state (agencies) must follow the steps outlined below:*
   a. *review all current operations and determine if consolidation of services, bureaus, or agencies could improve efficiency and reduce overall spending. Agencies must report their findings to the Governor and the Division of Financial Management (DFM).*
   b. *submit a vacant full-time positions report in accordance with the budget development manual and reduce full-time positions that have been vacant for over six months. Reductions must be submitted in agency budget submissions.*
   c. *review and take inventory of all current contracts to identify where contract costs exceeded inflation. Based on results of the inventory, heads of agencies must provide the Governor and DFM with recommendations to reduce increased contract costs.*
   d. *review all boards and commissions, whether governing or advisory, to identify (i) the number of members serving on each board and commission; (iii) the number of meetings convened per year by each board and commission; and (iii) agency costs associated with supporting each board and commission. Agencies must report their findings to the Governor and DFM.*

e. review internal travel policies to confirm alignment with the State Travel Policy; and report all employee travel expenditures in Fiscal Year (FY) 2025 with their budget submission.

f. identify and review all unobligated dedicated fund cash balances (cash balances) that are not critical to operations in FY 2026 or FY 2027. Agencies must report cash balances to DFM.

2. *My administration will continue to collaborate and partner with the Legislature to identify and implement more efficiencies in state government.*
3. *I commend the Legislature and agencies for identifying obsolete, outdated, and unnecessary statutes pursuant to the Idaho Code Cleanup Act passed by the Legislature this year, and I look forward to working with the Legislature to streamline Idaho Code and further Idaho's efforts to reduce regulatory burdens.*

Idaho will Right-size State Government to Match the Means of Idahoans

4. *Except for K-12 public schools, all agencies must reduce their General Fund spending authority on file in the Office of the State Controller by three percent for their FY 2026 General Fund appropriation, pursuant to Section 67-3512A, Idaho Code.*
5. *I invite state constitutional officers, officials of the legislative branch, and officers of the judicial branch to assess and evaluate their FY 2026 General Fund appropriation to determine whether they could reduce government spending to more efficiently and effectively administer their legal duties without impairing the discharge of their constitutional duties.*

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 15th day of August in the year of our Lord two thousand and twenty-five.

BRAD LITTLE
GOVERNOR

PHIL MCGRANE
SECRETARY OF STATE

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15.02.30 – BUSINESS ENTERPRISE PROGRAM

DOCKET NO. 15-0230-2401 (ZBR CHAPTER REWRITE)

NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has scheduled a public hearing and extended the period of public comment. The action is authorized pursuant to Sections 67-5407(d)(e) and 67-5408, Idaho Code.

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

Thursday, September 18, 2025
11:00 a.m. - 1:00 p.m. MT

In Person:
Idaho Commission for the Blind and Visually Impaired
341 West Washington
Boise, ID 83720

Virtual Meeting Link (MS Teams):
Join the meeting now
Meeting ID: 234 474 287 079 1
Passcode: j3Hi2nY9

Dial in by phone:
+1 208-985-2810,,823182870# United States, Boise
Find a local number
Phone conference ID: 823 182 870#

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

DESCRIPTIVE SUMMARY: The summary of this action is found in Idaho Administrative Bulletin, November 6, 2024, Vol. 24-11, pages 37- 54.

The Idaho Commission for the Blind and Visually Impaired 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 to use plain language for better understanding. This proposed rulemaking updates the rules to comply with the governing statute and Executive Order 2020-01.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Mike Walsh (208)334-3220, email mike.walsh@icbvi.idaho.gov.

SUBMISSION OF WRITTEN COMMENTS: The comment period for this rulemaking has been extended. Anyone may submit written comments regarding this rulemaking during this comment period or a written comment may be submitted at the public hearing in lieu of giving an oral presentation. Any written comments submitted at a public hearing carry the same weight as oral testimony and will be considered as such.

All written comments must be directed to the undersigned and must be delivered on or before September 24, 2025.

DATED this 21st day of August, 2025.

Mike Walsh PhD, CRC
Rehabilitation Services Chief
Idaho Commission for the Blind and Visually Impaired
341 West Washington
P.O. Box 83720
Boise, ID 83720-0012
Mike.walsh@icbvi.idaho.gov

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.13 – CONSUMER-DIRECTED SERVICES

DOCKET NO. 16-0313-2501 (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 56-202, Idaho Code, and Sections 56-203, 56-250 through 56-257, and 56-260 through 56-266, Idaho Code.

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

VIRTUAL TELECONFERENCE Via WebEx
Wednesday, September 17, 2025 **1:00 PM (MT)**
Join from the meeting link **https://idhw.webex.com/idhw/j.php?MTID=m783dd6ad225883ef0ce90968fcf16cee** **Join by meeting number** **Meeting number (access code): 2818 917 5847** **Meeting password: JebRQNsa767** **Meeting password when dialing from a phone or video system: 53277672** **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:

When HB345 was passed during the 2025 Legislative Session, Medicaid chapter 16.03.13 was inadvertently left out of the rule repeal section. To prevent the existence of one chapter for all of Medicaid, and then a separate independent chapter, this chapter is being repealed and consolidated into the overall Medicaid chapter 16.03.26.

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

Fees will not be increased by the elimination of this chapter.

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 not be an impact to the General Fund greater than $10,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there was not sufficient time for negotiated rulemaking after passage of HB345 during the 2025 Legislative Session.

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 Jared Larsen at 208-334-5500.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2025.

DATED this 20th day of August, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
DHWRules@dhw.idaho.gov

IDAPA 16.03.13 IS PROPOSED TO BE REPEALED IN ITS ENTIRETY.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.04.14 – LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

DOCKET NO. 16-0414-2501 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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

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

Under Executive Order 2020-01: Zero-Based Regulation, the Department 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 to streamline or simplify this rule language. As such, the chapters of 16.03.08, 16.06.13, and 16.04.14 are consolidated into what is proposed to be entitled IDAPA 16.03.08. 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 2nd, 2025, Idaho Administrative Bulletin, Vol. 25-7, page 66.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

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

There is not anticipated to be a negative fiscal impact exceeding $10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 31st day of July, 2025.

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.04.17 – RESIDENTIAL HABILITATION AGENCIES

DOCKET NO. 16-0417-2501 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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

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

This chapter is proposed to be repealed and consolidated into Docket No. 16-0321-2501. Consolidating these two chapters will assist the Department and providers with efficiency and consistency while reducing regulatory burden and ensure the health and safety of the vulnerable individuals these organizations serve. This chapter includes requirements for Adult Residential Care Facilities that provides residential services to adult individuals with developmental disabilities. 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 June 4, 2025, Idaho Administrative Bulletin, Vol. 25-6, page 336.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

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

There is not anticipated to be a negative fiscal impact exceeding $10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 31st day of July, 2025.

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.02 – FOSTER CARE LICENSING

DOCKET NO. 16-0602-2501

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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

During the 2025 Idaho Legislative Session House Bill 245 was passed and signed into law which increased the maximum age of extended foster care from age 21 to 23 years old. As such, the rule needed to be updated by July 1st to be in congruence with statute. This temporary and proposed rule also addresses the second component of House Bill 245 which called on the Department to make a separate path for licensure for kin. Finally, this rule makes changes to the application process for foster parents which grant the Department the ability to deny an application in the event of the preponderance of evidence and the underlying facts and circumstances indicating that a prior offense has been committed. 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 2nd, 2025, Idaho Administrative Bulletin, Vol. 25-7, pages 67 through 77.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

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

There is not anticipated to be a negative fiscal impact exceeding $10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 31st day of July, 2025.

Jared Larsen
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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.03 – DAYCARE LICENSING

DOCKET NO. 16-0603-2501 (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 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1107, 39-1111, 56-1003, 56-1004A, 56-1005(8), 56-1007, and 56-202, Idaho Code.

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

Under Executive Order 2020-01: Zero-Based Regulation, the Department 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 to streamline or simplify this rule language. As such, the chapters of 16.06.12 and 16.06.03 are consolidated into what is proposed to be entitled IDAPA 16.06.03.

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 2nd, 2025, Idaho Administrative Bulletin, Vol. 25-7, pages 78 through 97.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

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

There is not anticipated to be a negative fiscal impact exceeding $10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 31st day of July, 2025.

Jared Larsen
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DOCKET NO. 16-0603-2501 - ADOPTION OF PENDING RULE

Substantive changes have been made in the pending rule.
Italicized red text that is *double underscored* indicates
amendments to the proposed ~~text as adopted in the~~ pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 25-7, July 2, 2025, pages 78 through 97.

This rule has been adopted as a pending rule by the Agency and is now awaiting review and final approval by the 2026 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 16-0603-2501

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

16.06.03 – DAYCARE LICENSING AND IDAHO CHILD CARE PROGRAM (ICCP)

001. INCORPORATION BY REFERENCE.

01. Occupational Safety *and* Health Act (OSHA) *of 1970, as amended through November 23, 2021*. A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041 or at https://www.osha.gov/sites/default/files/publications/OSHA2001.pdf. ~~(7-1-24)~~*( )*

02. ~~Crib Safety -- Full Size Baby Cribs. Crib Safety~~. ~~Consumer Product Safety Commission, Compliance information for full size cribs can be found at https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3028%5d=3028~~***16 CRF Part 1219–Safety Standard For Full-Size Baby Cribs, June 28, 2011****. This document is available here: https://www.ecfr.gov/current/title-16/chapter-II/subchapter-B/part-1219*. ~~(7-1-24)~~*( )*

03. ~~Crib Safety -- Non-Full Size Baby Cribs. Crib Safety~~. ~~Consumer Product Safety Commission, Compliance information for non-full size cribs can be found at https://www.cpsc.gov/Business--Manufacturing/Business-Education/FAQ?p=3019&tid%5b3029%5d=3029~~***16 CFR Part 1220–Safety Standard For Non-Full-Size Baby Cribs, June 28, 2011****. This document is available here: https://www.ecfr.gov/current/title-16/chapter-II/subchapter-B/part-1220*. ~~(7-1-24)~~*( )*

04. *2025* Idaho Child Care Program Manual. The Idaho Child Care Program Manual can be found at: https://healthandwelfare.idaho.gov/services-programs/children-families-older-adults/idaho-child-care-program. *( )*

002. DEFINITIONS.

01. Earned Income. Income received by a person as wages, tips, or self-employment income before deductions for taxes or any other purpose. ( )

02. **Foster Care**. The twenty-four (24) hour substitute care of children in the legal custody of the state of Idaho provided in a state licensed foster home by persons who may or may not be related to a child. Foster care is provided in lieu of parental care and is arranged through a private or public agency. ( )

03. **Foster Child**. A child in the legal custody of the state of Idaho placed for twenty-four (24) hour substitute care by a private or public agency. ( )

04. **Good Cause**. The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. ( )

05. **Incapacitated Parent**. A parent who is determined by a licensed practitioner of the healing arts to be unfit, incapable, or significantly limited in their ability to provide adequate care for their child or ward. ( )

06. **Legal Guardian**. A court-appointed individual who acts as the primary caretaker of a child or minor. ( )

07. **Online Classes**. Schooling completed primarily through online platforms regardless of occasional in-person classes. ( )

08. **Parent**. A person responsible for a child because of birth, adoption, marriage, legal guardianship, foster care, or a person acting in loco parentis. ( )

09. **Plan of Correction**. Procedures and activities developed between the Department and provider to bring a daycare facility into compliance. ( )

10. **Regularly on the Premises**. Twelve (12) hours or more in any one (1) month, or daily during operating hours. ( )

11. **Relative Provider**. Grandparent, great-grandparent, aunt, uncle, or adult sibling by blood or current marriage who provides child care. ( )

12. **Special Needs**. Any child with physical, mental, emotional, behavioral disabilities, or developmental delays identified on an Individual Education Plan (IEP) or an Individualized Family Service Plan (IFSP). ( )

13. **Unearned Income**. Unearned income includes retirement, interest, child support, and any other income received from a source other than employment or self-employment. ( )

00~~2~~3. – 008. (RESERVED)

009. BACKGROUND CHECK REQUIREMENTS.

01. Compliance. ~~Department enhanced background checks are required for individuals licensed under these rules and must comply with IDAPA 16.05.06, "Criminal History and Background Checks."~~ Applicants, providers, and individuals subject to criminal history checks must submit evidence of clearance from the Department before they are allowed to provide services or receive licensure, or certification to become an ICCP provider. After receiving a clearance, any new convictions must be reported to the Department once the provider learns of the conviction. A *criminal history* check may be requested for individuals providing child care at any time. ~~(7-1-24)~~( )

~~**02. Background Check Requirements**. Each owner, operator, or applicant seeking licensure for a daycare facility must submit evidence that the following individuals successfully completed and received a clearance for a Department enhanced background check, at least every five (5) years, under Sections 39-1105 and 39-1113, Idaho Code:~~ ~~(7-1-24)~~

~~**a.** Owners, operators, and staff;~~ ~~(7-1-24)~~

~~**b.** All other individuals thirteen (13) years old or older who have unsupervised direct contact with children; or (7-1-24)~~

~~**c.** All other individuals thirteen (13) years old or older who are in the household or regularly on the premises. (7-1-24)~~

~~**03. Family Daycare Homes**. Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with Sections 39-1105 and 39-1113, Idaho Code. (7-1-24)~~

~~**04. Background Check Frequency**. The Department can require a background check at any time on any individual who is an owner, operator, staff, household member of a daycare facility, and all other individuals who are thirteen (13) years old or older who have unsupervised direct contact with children or who are regularly on the premises. (7-1-24)~~

~~**05. Juvenile Justice Records**. The enhanced background check for individuals under eighteen (18) years, must include a check of the juvenile justice records, as authorized by the minor and their parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) through eighteen (18) years old. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, the associated costs of these records, and submitting them to the Department for review. A check of the juvenile justice records must include the following: (7-1-24)~~

~~**a.** Juvenile justice records of adjudication of the magistrate division of the district court; (7-1-24)~~

~~**b.** County probation services; and (7-1-24)~~

~~**c.** Department records. (7-1-24)~~

~~**06. Cost of Background Check and Juvenile Justice Records**. Each individual who requests and obtains a Department background check is responsible for the cost of the background check and check of juvenile justice records. (7-1-24)~~

~~**07. Private Schools and Private Kindergartens**. Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years old or a private kindergarten must comply with Sections 39-1105 and 39-1113, Idaho Code. (7-1-24)~~

~~**08. Reporting Convictions**. Following completion of a background check and clearance, additional criminal convictions, and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self-disclosed by the individual to the owner or operator of a daycare facility. The owner or operator must report these additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. (7-1-24)~~

010. – 120. (RESERVED)

121. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.
Any individual applying for licensure as a daycare facility must ~~be at least eighteen (18) years old, apply, and~~ provide information ~~required by the Department under this rule,~~ to include: ~~(7-1-24)~~( )

01. Completed Licensing Application. (7-1-24)

02. Licensing Fee. The ~~applicant~~ nonrefundable fee must ~~pay the appropriate licensing fee~~ be paid prior to the issuance of a daycare license. ~~(7-1-24)~~( )

03. Inspection Reports. The following ~~reports~~ must be submitted ~~to the Department~~ with the application that prove the facility or proposed facility meets: ~~(7-1-24)~~( )

a. Building code under IDAPA 24.39.30, ~~"Rules of Building Safety (Building Code Rules),"~~ where

required; ~~(7-1-24)~~( )

b. Electrical code under IDAPA 24.39.10~~, "Rules of the Idaho Electrical Board,"~~ where required; ~~(7-1-24)~~( )

c. Fire code under Section 41-253, Idaho Code, where required; and (7-1-24)

d. Local planning and zoning requirements. All daycare facilities must comply with applicable city and county ordinances. (7-1-24)

04. Proof of Insurance. The applicant must provide proof of current fire and liability insurance coverage for the daycare facility. (7-1-24)

~~**05. Background Clearance**. Evidence that the applicant and all individuals required to have a background check have received a clearance from the Department.~~ ~~(7-1-24)~~

0~~6~~5. Statement to Comply. ~~As part of the application, the a~~ Applicants must ~~thoroughly~~ read~~,~~ ~~and~~ review~~,~~ ~~these rules~~ and agree ~~that they are prepared~~ to comply with ~~all~~ these provisions. Providers must ~~also~~ certify ~~that~~ they will not harm, shake, or abuse children~~, and that children in their care will not experience~~ ensuring no maltreatment occurs under 45 CFR 98.41. ~~(7-1-24)~~( )

0~~7~~6. Statement Disclosing Revocation or Disciplinary Actions. A written statement ~~that discloses~~ disclosing any revocation or other disciplinary action ~~taken or in the process of being taken~~ against the applicant as a daycare provider in any jurisdiction, or a statement ~~from the applicant~~ stating ~~they have never been involved in any such action~~ there has been none. ~~(7-1-24)~~( )

0~~8~~7. Other Information as Requested. The applicant must provide ~~other~~ any additional information ~~that may be~~ requested by the Department for ~~the proper administration and~~ rule enforcement ~~of these rules~~. ~~(7-1-24)~~( )

0~~9~~8. Health and Safety Inspection. The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete~~,~~ and the licensing fee has been paid. ~~(7-1-24)~~( )

~~10~~09. Additional Requirements for License Renewal. A daycare license must be renewed every two (2) years~~. The daycare operator must submit to the Department~~ by submitting the renewal application, fee, and ~~all~~ required ~~documentation in this rule~~ documents at least forty-five (45) days ~~prior to the~~ before expiration *of the current daycare license*. ~~(7-1-24)~~( )

1~~1~~0. Relicense. ~~When a~~ A correctly completed renewal application ~~has been completed correctly~~, keeps the existing license ~~will~~, unless ~~officially~~ revoked~~, remain in force~~ valid until the Department ~~has acted~~ acts on ~~the application for renewal~~ it. ~~(7-1-24)~~( )

122. (RESERVED)

123. DISPOSITION OF APPLICATIONS.
The Department will ~~initiate action~~ act on ~~each~~ completed application within thirty (30) days ~~after receipt that addresses each requirement for the specific type of daycare license. Upon receipt of a completed application, the Department will~~ and review them ~~materials~~ for compliance with ~~these rules~~ daycare license requirements. ~~(7-1-24)~~( )

01. Termination of Application Process. Failure ~~of the applicant~~ to cooperate with the Department ~~in~~ during the application process may ~~result in the~~ lead to termination~~. of the application process. Failure to cooperate means that the information requested is~~ This includes not ~~provided~~ providing requested information within ninety (90) days, or not ~~provided~~ in the ~~form~~ requested ~~by the Department, or both~~ format. ~~(7-1-24)~~( )

02. Denial of Application. If an application is denied, a signed letter will be sent ~~directly~~ to the applicant by registered or certified mail~~, advising~~ stating the ~~applicant of the~~ denial and ~~stating~~ the basis ~~for such~~

~~denial~~. ~~An~~ The applicant ~~whose application has been denied~~ may not reapply until after one (1) year has elapsed from the date on the denial of application. *This does not apply to licenses considered abandoned under Section 39-1104, Idaho Code.* ~~(7-1-24)~~( )

03. Failure to Complete Application Process. Failure ~~of the applicant~~ to complete the application process within six (6) months ~~of the original date of application~~ will result in ~~*a denial of*~~ *the application being classified as abandoned*. ~~(7-1-24)~~( )

04. Denial of Licensure. If the Department determines the applicant is ~~not in compliance with these rules and further~~ non-compliant and determines not to issue a daycare license, ~~the Department~~ it will, ~~within thirty (30) days from the date the completed application is submitted,~~ issue a ~~letter of~~ denial ~~of licensure~~ letter within thirty (30) days of the completed application stating the ~~basis for the denial~~ reason. ~~(7-1-24)~~( )

05. Incomplete Application. The Department ~~is not required to take any action~~ acts on an application ~~until the application~~ only when it is complete. ~~(7-1-24)~~( )

06. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days ~~prior to expiration of~~ before the license expires. ~~(7-1-24)~~( )

124. – 149. (RESERVED)

150. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the designated daycare facility ~~licensed by the Department,~~ or ~~the~~ person and premises ~~designated~~. ~~Each license~~ It is issued in the business ~~name~~ or individual name, and only ~~to~~ for the specified address identified on the application ~~of the facility~~. ~~A~~ The license ~~issued in the name of a daycare facility licensed by the Department applies~~ is valid only ~~to~~ for the period and services ~~specified~~ detailed in ~~the license~~ it. ~~(7-1-24)~~( )

02. Return of License. The operator must immediately return their license to the Department under any of the following circumstances: (7-1-24)

a. Changes of ~~*management*~~ *ownership* or address; ~~*(7-1-24)*~~( )

b. Upon suspension or revocation of the license; or (7-1-24)

c. Upon voluntary discontinuation of service. (7-1-24)

03. Nontransferable. A license is nontransferable or assignable ~~from one (1)~~ between individuals, ~~to another, from one (1) business entity~~ entities, or ~~governmental unit to another, or from one (1)~~ locations ~~to another~~. ~~(7-1-24)~~( )

04. Change in Ownership or Location. ~~When there is a change in~~ If ownership or location changes, the daycare facility must reapply for a license ~~. A license must be obtained~~ before starting operations. ~~(7-1-24)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

380. HEALTH STANDARDS.
Each daycare facility licensed by the Department, must comply with the following. Health inspections must be conducted annually by a qualified inspector designated by the Department and will be unannounced. (7-1-24)

01. Food. Must be from an approved source under IDAPA 16.02.19, ~~"Idaho Food Code."~~ Food must not be served past expiration or "use by" date. ~~(7-1-24)~~( )

~~02. Food Preparation~~. *~~Food for use in daycare facilities must be prepared and served in a sanitary~~*

~~*manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination.*~~ ~~*(7-1-24)*~~

a. Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process and cooked to proper temperatures under IDAPA 16.02.19~~, "Idaho Food Code."~~ ~~(7-1-24)~~( )

b. Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes. (7-1-24)

0~~3~~2. **Food Temperatures**. Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty-five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures under IDAPA 16.02.19~~, "Idaho Food Code."~~ Refrigerators must be equipped with an accurate thermometer. ~~(7-1-24)~~( )

0~~4~~3. **Food Storage**. ~~All food that is served in daycare facilities must be stored in such a manner that protects it from potential contamination.~~ There must be no evidence of pests present in the daycare facility
. ~~(7-1-24)~~( )

0~~5~~4. **Food Contact Surfaces**. Must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards. (7-1-24)

0~~6~~5. **Dishwashing Sanitizing**. Dishes, glasses, utensils, silverware, and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures. (7-1-24)

0~~7~~6. **Utensil Storage**. Clean utensils must be stored on clean shelves or drawers and not subject to recontamination, and sharp knives and other sharp objects be kept out of reach of children. (7-1-24)

0~~8~~7. **Garbage**. Must be kept covered or inaccessible to children. (7-1-24)

~~*09. Hand Washing. Children and facility staff must be provided with individual or disposable towels for hand drying, and the hand washing area be equipped with soap and warm and cold running water.* (7-1-24)~~

~~1~~08. **Diaper Changing**. Must be ~~conducted in such a manner as to prevent the spread of communicable diseases, be~~ separate from food preparation and serving areas, and have easy access to a hand washing sink. ~~(7-1-24)~~( )

~~*11. Sleeping Areas. Children sleeping at the facility must have separate cots, mats, or beds and blankets.* (7-1-24)~~

~~12~~09. **Safe Sleep**. Providers must place newborn infants up to twelve (12) months old in a safe sleep environment. Safe sleep practices include alone, on their backs, and in a Consumer Product Safety Commission (CPSC) certified sleep space. (7-1-24)

1~~3~~0. **Restrooms, Water Supply, and Sewage**. All daycare facilities must have restrooms. (7-1-24)

a. Each facility must have at least one (1) flushable toilet and one (1) hand washing sink with warm and cold water per restroom. (7-1-24)

b. Plumbing and bathroom fixtures must be in good condition. (7-1-24)

c. All daycare facilities and homes must comply with IDAPA 24.39.30~~, "Rules of Building Safety (Building Code Rules)."~~ ~~(7-1-24)~~( )

1~~4~~1. **Water Supply**. The facility's water supply must meet one (1) of the following requirements: (7-1-24)

a. Be from a public water system that is maintained under IDAPA 58.01.08~~, "Idaho Rules for Public~~

~~Drinking Water Systems,"~~ at the time of initial or renewal application; or ~~(7-1-24)~~( )

b. Be from a private source, such as well or spring, be tested annually for bacteria and nitrate, and be approved by the Department. (7-1-24)

c. Water used for consumption at a daycare facility is from an acceptable source. Temporary use of bottled water or boiled water may be allowed for a period specified by the Department. (7-1-24)

1~~5~~2. **Sewage Disposal**. Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority under IDAPA 58.01.03 ~~"Individual/Subsurface Sewage Disposal Rules."~~ ~~(7-1-24)~~( )

1~~6~~3. **Alcohol and Illegal Drugs**. Must not be used by providers, owners, operators, staff, volunteers, children, or visitors at daycare facilities, in the presence of children during hours of operation, or in vehicles while transporting children. (7-1-24)

a. Any individual under the influence of alcohol or drugs is not permitted at or in the daycare facility. (7-1-24)

~~**b.** Illegal drugs are prohibited by law and therefore are not allowed on the premises of any licensed daycare facility at any time. (7-1-24)~~

1~~7~~4. **Smoke-Free Environment**. Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all staff must ensure that no smoking or other tobacco use occurs within the facility, in outdoor areas, or in vehicles when children are present. (7-1-24)

1~~8~~5. **Transportation**. ~~Provider that transports a child(ren) will possess a valid driver's license, be insured under Idaho Law, and abide by all traffic laws including the requirement that all children are in proper safety restraints while being transported under Section 49-672, Idaho Code, and Section 49-673, Idaho Code.~~ Vehicles used to transport children will be properly maintained and in good working condition. ~~(7-1-24)~~( )

1~~9~~6. **Disaster and Emergency Planning**. Providers must have documented plans for emergencies resulting from a natural disaster, or human-caused event that include: (7-1-24)

a. Procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, and accommodation of infants and toddlers and children with disabilities or chronic medical conditions. (7-1-24)

b. Procedures for staff and volunteer emergency preparedness training and practice drills. (7-1-24)

c. Guidelines for the continuation of daycare services in the period following the emergency or disaster. (7-1-24)

d. Procedures for the prevention of and response to emergencies due to food and allergic reactions. (7-1-24)

~~*20*~~17. **Medication**. No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise in inaccessible to children. (7-1-24)

~~*21*~~18. **Adequate Heat, Light, and Ventilation**. A daycare facility must have adequate heat, light and ventilation. Windows and doors must be screened if used for ventilation. (7-1-24)

~~***22. Immunizations**. Daycare operators must comply with requirements under IDAPA 16.02.11, "Immunization Requirements for Licensed Daycare Facility Attendees." (7-1-24)~~

(BREAK IN CONTINUITY OF SECTIONS)

400. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.
Each daycare facility licensed by the Department must comply with the following: (7-1-24)

01. Appliances and Electrical Cords. All appliances, lamp cords, exposed light sockets, and electrical outlets will be protected to prevent electrocution. (7-1-24)

02. Balconies and Stairways. Balconies and stairways accessible to children will have substantial railings as required by IDAPA 24.39.30, ~~"Rules of Building Safety (Building Code Rules)~~. ~~(7-1-24)~~( )

03. Stairway Protection. Where an operator cares for children less than three (3) years old, stairways will be protected to prevent child access to stairs. (7-1-24)

04. Hazardous Area Restrictions. Based on the age and functioning level of children in care and the type of hazard and the area surrounding the hazard, the area will be restricted to prevent easy access to the hazard. (7-1-24)

05. Fueled Equipment. Fueled equipment including motorcycles, mopeds, lawncare equipment, and portable cooking equipment. This equipment will not be stored or repaired in areas where children are present. (7-1-24)

~~*06. Water Hazards. Above and below ground pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: (7-1-24)*~~

~~*a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following (7-1-24)*~~

~~*i. The fence will be at least four (4) feet high with no vertical opening more than four (4) inches wide and designed so that a young child cannot climb or squeeze under or through the fence. The fence will surround all sides of the pool and have a self-closing gate that has a self-latching mechanism in proper working order that is out of the reach of young children. (7-1-24)*~~

~~*ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool will have alarms that produce an audible sound when the door is opened. (7-1-24)*~~

~~*b. Furniture or other large objects will not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub, pond, or other body of water is not fenced and locked, there will be a secured protective covering that prevents access by a child. (7-1-24)*~~

~~*c. Wading pools and buckets will be empty when not in use. (7-1-24)*~~

~~*d. Children will be under direct supervision of adult staff who are certified in pediatric CPR and pediatric first aid while using a bathtub, pool, hot tub, pond, or other body of water. (7-1-24)*~~

~~*e. A minimum of a four (4) foot high fence that prevents access from the daycare facility premises if the daycare premises are adjacent to a body of water. (7-1-24)*~~

0~~7~~6. **Indoor Play Areas and Toys**. The indoor play areas will be clean, have age-appropriate toys, and be free from accumulation of dirt, rubbish, or other health hazards. (7-1-24)

0~~8~~7. **Outdoor Play Areas and Toys**. Any outdoor play area must be maintained free from hazards such as wells, machinery, and animal waste. (7-1-24)

a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area will be enclosed with a fence in good repair that is at least four (4) feet high without any holes or spaces greater than four (4) inches in diameter. (7-1-24)

b. Outdoor equipment, such as climbing apparatus, slides, and swings will be anchored firmly and placed in a safe location and according to the manufacturer's instructions. (7-1-24)

c. Outdoor play areas will be designed so that all parts are always visible and easily supervised by staff. (7-1-24)

d. Toys, play equipment, and any other equipment used by the children will be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides will be kept in good repair and well-maintained. (7-1-24)

e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects, and balloons will not be accessible to children ages three (3) and under, or children who are known to place such objects in their mouths. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

421. ICCP ELIGIBILITY FOR BENEFITS.
The following requirements must be met to be considered for ICCP: ( )

01. Application. Applicants must complete and sign an application. Verifications are required within thirty (30) days, otherwise a new application is required; ( )

02. Residency. Applicants must live within the state of Idaho with no immediate intention of leaving; ( )

03. Asset Cap. An applicant's family assets must not exceed one million dollars ($1,000,000); ( )

04. Cooperation with Child Support Services. An applicant must cooperate with establishing paternity and obtaining child support if applicable, unless good cause is granted; and ( )

05. Eligible Child. A family may receive child care benefits so long as the child(ren) is: ( )

a. A citizen or living lawfully in the United States; and ( )

b. *Be under t*hirteen (13) years *of age* unless the child is physically or mentally unable to self-care and is verified by a licensed mental health professional, or licensed medical professional, or is under court supervision, in which case benefits may continue until the month of the child's nineteenth (19th) birthday. ( )

422. INCOME LIMITS.
A family must have income that does not exceed the following published Federal Poverty Guidelines (FPG); ( )

01. Income at Application. One hundred thirty percent (130%) of FPG for a family of the same size. ( )

02. Income During Eligibility Period. Eighty-five percent (85%) of the State Median Income (SMI) for a family of the same size. ( )

03. Income at Redetermination. *If income exceeds o*ne hundred forty-five percent (145%) of FPG for a family of the same size. The family may be eligible to receive a graduated phase out of child care assistance.( )

(BREAK IN CONTINUITY OF SECTIONS)

427. REDETERMINATION OF ELIGIBILITY FOR CHILD CARE BENEFITS.

01. Redetermination. The Department will redetermine eligibility for child care benefits at least every twelve (12) months. ( )

02. Graduate Phase Out. At redetermination, if a household's income exceeds one hundred forty-*five* percent (145%) of FPG for a family of the same size, eligible children may receive a graduated phase out benefit that is limited to twelve (12) months following the completion of redetermination. ( )

(BREAK IN CONTINUITY OF SECTIONS)

434. ALLOWABLE CHILD CARE COSTS.
Care provided to an eligible child by an eligible child care provider is payable subject to the following conditions: ( )

01. Parent's Qualifying Activities. *The need for c*hildcare must be reasonably related to the parent's qualifying activities. ( )

02. One-Time Registration Fees. One-time fees for registering a child in a child care facility are payable above the local market rate, if the fee is charged to all who enroll in the facility with reimbursement capped at one hundred fifty dollars ($150) and must be usual and customary rates charged to all families. Registration fees are separate from local market rates. ( )

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.12 – IDAHO CHILD CARE PROGRAM (ICCP)

DOCKET NO. 16-0612-2501 (ZBR CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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

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

Under Executive Order 2020-01: Zero-Based Regulation, the Department 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 to streamline or simplify this rule language. As such, the chapters of 16.06.12 and 16.06.03 are consolidated into what is proposed to be entitled IDAPA 16.06.03. 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 2nd, 2025, Idaho Administrative Bulletin, Vol. 25-7, page 98.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

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

There is not anticipated to be a negative fiscal impact exceeding $10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 31st day of July, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
DHWRules@dhw.idaho.gov

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.13 – EMERGENCY ASSISTANCE FOR FAMILIES AND CHILDREN

DOCKET NO. 16-0613-2501 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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

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

Under Executive Order 2020-01: Zero-Based Regulation, the Department 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 to streamline or simplify this rule language. As such, the chapters of 16.03.08, 16.06.13, and 16.04.14 are consolidated into what is proposed to be entitled IDAPA 16.03.08. 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 2nd, 2025, Idaho Administrative Bulletin, Vol. 25-7, page 99.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

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

There is not anticipated to be a negative fiscal impact exceeding $10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 31st day of July, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
DHWRules@dhw.idaho.gov

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.04 – RULES FOR THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-2401 (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 58-1304 and 58-104(6), Idaho Code.

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

Thursday, September 11, 2025
10:00 a.m. (MT)

Idaho Department of Lands
Boise Bureau Office, Garnet Conference Room
300 N. 6th St., Suite 103
Boise, ID 83720

To join via Microsoft Teams: Link

Meeting ID: 247 072 447 001 4 Passcode: fb7ei7xd

To attend by telephone call: +1 (469) 998-7393
Conference ID: 533 914 872#

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:

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2025 for review during the 2026 legislative session. The department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The department reviewed the rule with stakeholders to ensure that it is right sized. The department seeks to modify language for consistency within the rule, with statutes, and with other state rules.

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 rule will have no 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 2, 2025 Idaho Administrative Bulletin, Vol. 25-4, pages 36-38.

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:

IDL has chosen to incorporate by reference the International Fire Code adopted through IDAPA 18.08.01 - Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code, which helps IDL ensure that

buildings, fueling stations, and commercial public encroachments meet minimum standards for safety over the water. The IFC is enforced through the Idaho State Fire Marshal or their deputy.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Marde Mensinger at (208) 334-0248 or mmensinger@idl.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 September 24, 2025.

DATED this 30th day of July, 2025.

Marde Mensinger, Navigable Waterways Program Manager
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0248
Fax: (208) 334-3698
rulemaking@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0304-2401
(ZBR Chapter Rewrite.)

20.03.04 – RULES FOR ~~THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO~~ ENCROACHMENTS ON NAVIGABLE LAKES

000. LEGAL AUTHORITY.
~~This Chapter is adopted under the legal authorities of~~ Sections 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Title 58, Chapter 13, Idaho Code; and Title 67, Chapter 52, Idaho Code. ~~(3-18-22)~~( )

001. ~~TITLE AND~~ SCOPE.

~~**01. Title.** These rules are titled IDAPA 20.03.04, "Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho." (3-18-22)~~

~~**02. Scope.**~~ These rules govern encroachments on, in, or above navigable lakes in the state of Idaho. ~~(3-18-22)~~( )

002. ADMINISTRATIVE APPEALS.
Any person aggrieved by any final decision or order of the ~~b~~Board is entitled to judicial review pursuant to ~~the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01,~~ Title 58, Chapter 13, Sections 58-1305 and 58-1306, Idaho Code, and Sections 025, 030, and 080 of these rules. ~~(3-18-22)~~( )

003. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules: (3-18-22)

01. IDAPA 24.39.10, "Rules of the Idaho Electrical Board." IDAPA 24.39.10 is available at https://adminrules.idaho.gov/rules/current/24/243910.pdf. (3-18-22)

02. IDAPA 24.39.20, "Rules Governing Plumbing." This rule is available at https://adminrules.idaho.gov/rules/current/24/243920.pdf. (3-18-22)

03. 33 CFR Part 62, revised as of July 27, 2015 (United States Aids to Navigation System). The Electronic Code of Federal Regulations (eCFR) is available at https://www.ecfr.gov/cgi-bin/ECFR. ~~(3-18-22)~~( )

04. IDAPA 18.08.01, "Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code". This rule is available at https://adminrules.idaho.gov/rules/current/18/180801.pdf. ( )

004. -- 009. (RESERVED)

010. DEFINITIONS.
Additional definitions can be found in Title 58, Chapter 13, Idaho Code. ( )

01. Adjacent. Contiguous or touching, and with regard to land or land ownership having a common boundary. (3-18-22)

02. Aids to Navigation (ATON). Buoys, beacons, warning lights, and other encroachments ~~in aid of navigation intended to improve waterways for navigation~~ used to determine position or safe courses. ~~(3-18-22)~~( )

~~**03. Artificial High Water Mark**. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line.~~ ~~(3-18-22)~~

~~**04. Beds of Navigable Lakes**. The lands lying under or below the "natural or ordinary high water mark" of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.~~ ~~(3-18-22)~~

~~**05. Board**. The Idaho State Board of Land Commissioners or its designee.~~ ~~(3-18-22)~~

0~~6~~3. **Boat Garage**. A ~~structure~~ nonnavigational encroachment with one (1) or more slips that is completely enclosed with walls, roof, and doors~~, but no temporary or permanent residential area~~. ~~(3-18-22)~~( )

0~~7~~4. **Boat Lift**. A ~~mechanism~~ navigational encroachment for mooring boats partially or entirely out of the water. ~~(3-18-22)~~( )

0~~8~~5. **Boat Ramp**. A ~~structure~~ navigational encroachment or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers. ~~(3-18-22)~~( )

06. Breakwater. A navigational encroachment that is designed to protect moorage by reducing wave energy. ( )

0~~9~~7. **Commercial Marina**. A commercial navigational encroachment whose ~~primary~~ purpose is to provide moorage for rental or for free to ~~the~~ at least 50% of the general public. ~~(3-18-22)~~( )

~~10~~08. **Commercial Navigational Encroachment**. A navigational encroachment used for commercial purposes. (3-18-22)

~~11~~09. **Community Dock**. A ~~structure~~ navigational encroachment that provides private moorage for three (3) or more ~~than two (2)~~ adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner's associations. No public access is required for a community dock. ~~(3-18-22)~~( )

1~~2~~0. **Covered Slip**. A slip, or group of slips, ~~with a~~ covered by a frame, ~~fabric~~ canopy, and eaves that do not extend beyond the underlying dock. ~~(3-18-22)~~( )

131. Department. The Idaho Department of Lands ~~or its designee~~. ~~(3-18-22)~~( )

142. Director. The head of the Idaho Department of Lands or ~~his~~ their designee. ~~(3-18-22)~~( )

~~**15. Encroachments in Aid of Navigation**. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" is used interchangeably with the term "navigational encroachments." (3-18-22)~~

~~**16. Encroachments Not in Aid of Navigation**. Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation, such as float homes and boat garages. The term "encroachments not in aid of navigation" is used interchangeably with the term "nonnavigational encroachments." (3-18-22)~~

13. Dredging. The removal of earthen material below the ordinary or artificial high water mark. The term "dredging" may also be used interchangeably with "excavating". ( )

174. ~~Floating Home or~~ Float Home. A ~~structure~~ nonnavigational encroachment that is designed and built to be used, or is modified to be used, as a stationary ~~waterborne~~ residential dwelling and is not self-propelled. ~~These structures are usually dependent for utilities upon a continuous utility linkage to a source originating on shore, and must have either a permanent continuous connection to a sewage system on shore, or an alternative method of sewage disposal that does not violate local, state, or federal water quality and sanitation regulations.~~ ~~(3-18-22)~~( )

185. Floating Toys. Trampolines, inflatable structures, water ski courses, slides, and other nonnavigational recreational equipment that are not permanently anchored to the lake bed ~~or an encroachment~~ and are either located between the shoreline and the line of navigability or are waterward of the line of navigability for less than twenty-four (24) consecutive hours. ~~(3-18-22)~~( )

196. Jet Ski Ramp, Port, or Lift. A ~~mechanism~~ navigational encroachment for mooring jet skis or other personal watercraft similar to a boat lift. ~~The lifts may be free standing or attached to a dock or pier.~~ ~~(3-18-22)~~( )

~~20~~17. Line of Navigability. A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the ~~b~~Board when a line has not already been established for the body of water in question. ~~(3-18-22)~~( )

18. Littoral Owner. The fee owner of land adjacent to a navigable lake, or a lessee, or the owner of littoral rights that have been segregated from the fee specifically by deed, lease, or other grant. ( )

19. Littoral Right Lines. Lines that extend waterward from the intersection of the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. ( )

2~~1~~0. Low Water Mark. That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation. (3-18-22)

21. Marine Motor Fuel-Dispensing Facility. A nonnavigational encroachment where flammable and/or combustible liquids or gases used as fuel for watercraft are stored and dispensed from fixed equipment on shore, piers, wharves, floats or docks into the fuel tanks of marine craft and includes all other facilities used in connection therewith. ( )

22. Moorage. A place to secure float homes, boat garages, and watercraft ~~including, but not limited to, boats, personal watercraft, jet skis, etc~~. ~~(3-18-22)~~( )

~~**23. Natural or Ordinary High Water Mark**. The high water elevation in a lake over a period of~~

~~years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.~~ ~~(3-18-22)~~

~~**24. Navigable Lake**. Any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes. This definition does not include man-made reservoirs where the jurisdiction thereof is asserted and exclusively assumed by a federal agency.~~ ~~(3-18-22)~~

2~~5~~3. **Party**. Each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. (3-18-22)

2~~6~~4. **Person**. ~~A partnership, association, corporation, natural person, or entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government~~ Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. ~~(3-18-22)~~( )

2~~7~~5. **Piling**. ~~A metal, concrete, plastic, or wood p~~ Posts that ~~is placed~~ are driven into the lakebed and used to secure floating docks and other structures. ~~(3-18-22)~~( )

~~**28. Plans**. Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same.~~ ~~(3-18-22)~~

2~~9~~6. **Public Hearing**. The type of hearing where members of the public and other interested parties or agencies are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated ~~representative of the Department who acts as the~~ hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record~~ing~~ of any oral presentations at ~~such~~ these hearings will be taken ~~by the Department by tape recorder. The hearing coordinator exercises such control at hearings as necessary to maintain order, decorum and common courtesy among the participants~~. ~~(3-18-22)~~( )

3~~0~~27. **Public Trust Doctrine**. The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code. (3-18-22)

3~~1~~28. **Pylon**. A ~~metal, concrete, or wood post~~ that is placed into the lakebed and used to support ~~fixed piers~~ encroachments. ~~(3-18-22)~~( )

~~**32. Riparian or Littoral Rights**. The rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.~~ ~~(3-18-22)~~

~~**33. Riparian or Littoral Owner**. The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease, or other grant.~~ ~~(3-18-22)~~

~~**34. Riparian or Littoral Right Lines**. Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline.~~ ~~(3-18-22)~~

~~**35. Side Tie**. Moorage for watercraft where the dock or pier is on only one (1) side of the watercraft.~~ ~~(3-18-22)~~

29. **Residential Area**. Any space used for habitation, whether temporarily or permanently, that may include, but is not limited to sleeping arrangements, cooking appliances, bathroom facilities, living amenities,

recreational or entertaining space, or utility connections. ( )

30. **Seawall**. A nonnavigational encroachment constructed to prevent erosion to an area of land. ( )

361. **Single-Family Dock**. A ~~structure~~ navigational encroachment providing noncommercial moorage that serves one (1) waterfront owner ~~whose waterfront footage is no less than twenty-five (25) feet~~. ~~(3-18-22)~~( )

372. **Slip**. Moorage for ~~boats~~ watercraft with pier or dock structures on at least two (2) sides of the moorage. ~~(3-18-22)~~( )

383. **Submerged Lands**. The state-owned beds of navigable lakes, rivers and streams below the ~~natural or~~ ordinary high water mark~~s~~. ~~(3-18-22)~~( )

394. **Two-Family Dock**. A ~~structure~~ navigational encroachment providing noncommercial moorage that serves two (2) separate adjacent waterfront owners ~~having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common littoral property line~~. ~~(3-18-22)~~( )

~~40~~35. **Upland**. ~~The land bordering on~~ The land above the ordinary high water mark bordering on navigable lakes, rivers, and streams. ~~(3-18-22)~~( )

36. **Water Line**. A nonnavigational encroachment used to collect or discharge water. ( )

011. ABBREVIATIONS.

~~**01.** **ATON**. Aids to Navigation.~~ ~~(3-18-22)~~

~~**02.** **HDPE**. High-Density Polyethylene.~~ ~~(3-18-22)~~

01. **O/AHWM**. Ordinary or Artificial High Water Mark. ( )

012. POLICY.

01. **~~Environmental~~ Public Trust Resource Protection and Navigational or Economic Necessity, Justification, or Benefit**. It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the ~~State~~ Board ~~of Land Commissioners~~ to regulate and control the use or disposition of state-owned lake beds, ~~so as~~ to provide for their commercial, navigational, recreational or other public use. ~~(3-18-22)~~( )

02. **No Encroachments Without Permit**. No encroachment on, in or above the beds or waters of any navigable lake ~~in the state~~ may be made ~~unless approval has been given~~ without approval as provided in these rules. ~~An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho~~ An encroachment permit may require a submerged land lease. An encroachment permit for a specific activity or encroachment does not guarantee continued use if the activity or encroachment is subsequently found to substantially interfere with navigation or commerce. ~~(3-18-22)~~( )

~~**03.** **Permitting of Existing Encroachments**.~~ ~~(3-18-22)~~

~~**a.** The provisions of Title 58, Chapter 13, Section 58-1312, Idaho Code, apply.~~ ~~(3-18-22)~~

~~**b.** Any new encroachments, or any unpermitted encroachments constructed after January 1, 1975, are subject to these rules.~~ ~~(3-18-22)~~

013. -- 014. (RESERVED)

015. ENCROACHMENT STANDARDS.

01. Single-Family and Two-Family Docks. ~~The following parameters govern the size and dimensions of single-family docks and two-family docks.~~ ~~(3-18-22)~~( )

a. Total waterfront ownership must include at least twenty-five (25) linear feet of shoreline for single-family docks or fifty (50) feet of linear shoreline for two-family docks. ( )

~~a~~b. No part of the ~~structure~~ encroachment waterward of the ~~natural or ordinary high water mark or artificial high water mark~~ O/AHWM may exceed ten (10) feet in width, excluding the slip cut out. ~~(3-18-22)~~( )

~~b~~c. Total surface decking area waterward of the ~~natural or ordinary or artificial high water mark~~ O/AHWM, including approach ramp and walkway, may not exceed seven hundred (700) square feet~~, including approach ramp and walkway~~ for a single-family dock ~~and may not exceed~~ or one thousand one hundred (1,100) square feet~~, including approach ramp and walkway~~ for a two-family dock. ~~(3-18-22)~~( )

~~c~~d. No portion of the ~~docking facility~~ encroachment may extend beyond the line of navigability. ~~Shorter docks are encouraged whenever practical and new docks normally will be installed within the waterward extent of existing docks or the line of navigability.~~ ~~(3-18-22)~~( )

~~d~~e. A variance to the standards in this Subsection 015.01 ~~may~~ will only be approved by the Department when justified by site specific considerations~~, such as the distance to the established line of navigability~~. Any variance granted may require a lease per IDAPA 20.03.17. ~~(3-18-22)~~( )

02. Community Docks. (3-18-22)

~~a.~~ ~~A community dock is considered a commercial navigational aid for purposes of processing the application.~~ ~~(3-18-22)~~

~~b~~a. No part of the ~~structure~~ encroachment waterward of the ~~natural or ordinary high water mark or artificial high water mark~~ O/AHWM may exceed ten (10) feet in width except breakwaters when justified by site specific conditions and approved by the Department. ~~(3-18-22)~~( )

~~a~~b. ~~A community dock may not have less than~~ Total waterfront ownership must have at least fifty (50) linear feet of combined shoreline frontage. ~~Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock is limited to the product of the length of shoreline multiplied by seven (7) square feet per lineal feet or a minimum of seven hundred (700) square feet. However, the Department, at its discretion, may limit the ultimate size when evaluating the proposal and public trust values.~~ ~~(3-18-22)~~( )

c. The surface decking area of the community dock is limited to the greater of seven hundred (700) square feet or the product of the linear feet of the upland shoreline multiplied by seven (7) feet. The Department, in its sole discretion, may limit the surface decking area when site specific considerations justify a reduction to protect public trust resources. ( )

d. ~~If a breakwater will be incorporated into the structure of a dock, and a need for the breakwater can be demonstrated, the Department may allow the surface decking area to exceed the size limitations of Paragraph 015.02.c of these rules~~ The Department may allow the surface decking area of a community dock to exceed the size limitations if the need for a breakwater is demonstrated. ~~(3-18-22)~~( )

e. A ~~person with~~ permit is required to convert an existing community dock ~~that desires to change the facility~~ into a commercial marina ~~must submit the following information to the Department:~~. ~~(3-18-22)~~( )

~~i. A new application for an encroachment permit.~~ ~~(3-18-22)~~

~~ii. Text and drawings that describe which moorage will be public and which moorage will be private.~~ ~~(3-18-22)~~

03. Commercial Marina. (3-18-22)

a. ~~Commercial marinas must have a minimum of~~At least fifty percent (50%) of ~~their~~ moorage ~~available for use by the~~ at a commercial marina must be available to the general public on either a first come, first served basis for free or rent, or ~~a rent or lease agreement for a period of time up to one (1)~~ for lease not to exceed one (1) year. Moorage ~~contracts~~ leases may be renewed annually, ~~so long as a renewal term does~~ not to exceed one (1) year. ~~Moorage for use by the general public may~~ Public moorage must not ~~include conditions that result in a transfer of ownership of moorage or real property, or~~ require membership in a club or organization. ~~(3-18-22)~~( )

b. ~~Commercial marinas that are converted to a community dock must conform to all the community dock standards, including frontage requirements and square footage restrictions. This change of use must be approved by the Department through a new encroachment permit prior to implementing the change~~A permit is required to convert an existing commercial marina into any other type of encroachment. Commercial marinas must keep at least fifty percent (50%) of their moorage available to the general public. The permit application must illustrate and clearly depict which is public moorage and which is private moorage. ~~(3-18-22)~~( )

c. If local city or county ordinances governing parking requirements for marinas have not been adopted, commercial marinas must provide ~~a minimum of upland vehicle parking equivalent to~~ at least one (1) upland parking space per two (2) public watercraft or float home moorages. If private moorage is tied to ~~specific parking spaces or designated parking areas~~ designated parking spaces or areas, then the commercial marina must provide at least one (1) upland parking space per one (1) private watercraft or float home moorage ~~must be provided~~. In the event of conflict, the local ordinances prevail. ~~(3-18-22)~~( )

~~**d.** If a commercial marina can be accessed from a road, marina customers must be allowed access via that road. (3-18-22)~~

ed. Moorage that is not available for public use as described in Paragraph 015.03.a. of these rules is private moorage. (3-18-22)

fe. When calculating the moorage percentage, the amount of public moorage is to be compared to the amount of private moorage. Commercial marinas with private float home moorage are required to provide either non-private float home moorage or two (2) public use boat moorages for ~~every~~ each private float home moorage in addition to any other required public use boat moorages. ~~(3-18-22)~~( )

gf. When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.f. (3-18-22)

hg. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina~~, and private submerged land, if present~~. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA 20.03.17~~, "Rules Governing Leases on State-Owned Submerged lands and Formerly Submerged Lands."~~ ~~(3-18-22)~~( )

~~**i.** Existing commercial marinas that desire to change their operations and convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the general public. This change in operations must be approved by the Department through a new encroachment permit prior to implementation of the change. The permit application must describe, in text and in drawings, which moorage will be public and which moorage will be private. (3-18-22)~~

04. Covered Slip. (3-18-22)

a. Covered slips, regardless of when constructed, may not have a temporary or permanent residential area. (3-18-22)

b. ~~Slip covers should have colors that blend with the natural surroundings and are approved by the Department~~Covered slips with hard roofs and up to three (3) walls may be maintained or replaced at their current size

if previously permitted or constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages. ~~(3-18-22)~~( )

c. Covered slips may not be supported by extra piling nor constructed with hard roofs. (3-18-22)

d. ~~Slip covers with permanent roofs and up to three (3) walls may be maintained or replaced at their current size if they were previously permitted or if they were constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages~~Covered slips should have colors that blend with the natural surroundings and are approved by the Department. ~~(3-18-22)~~( )

e. ~~Fabric c~~Covered slips must be constructed as canopies without sides unless the following standards are followed: ~~(3-18-22)~~( )

i. At least two (2) feet of open space is left between the bottom of the cover and the dock or pier surface; and (3-18-22)

ii. Fabric for canopy and sides will transmit at least seventy-five percent (75%) of the natural light. (3-18-22)

05. Boat Garage. (3-18-22)

a. Boat garages ~~are considered nonnavigational encroachments~~ must only be used for mooring watercraft, and may not have separate fully enclosed rooms, overhead storage, or a residential area of any kind as defined by these rules. ~~(3-18-22)~~( )

b. Applications for permits to construct new boat garages, ~~expand the total square footage of the existing footprint, or raise the height will not be~~ or to expand the height or square footage of existing boat garage are no longer accepted unless the application is to support local emergency services. ~~(3-18-22)~~( )

c. ~~Existing permitted boat garages may be maintained or replaced with the current square footage of their existing footprint and height~~A permit is required to replace or relocate an existing boat garage. A new boat garage may not be expanded in size or height, and must retain the original square footage and footprint. ~~(3-18-22)~~( )

~~**d.** Relocation of an existing boat garage will require a permit. (3-18-22)~~

06. Breakwaters. Breakwaters ~~built upon the lake for use in aid of navigation~~ will not be authorized below the ~~level of normal~~ low water mark without an extraordinary showing of need, provided, however that this does not apply to floating breakwaters secured by piling and used to protect private property from recurring wind, wave, or ice damage, or used to control traffic in busy areas of lakes. The breakwater must be designed to counter wave actions of known wave heights and wave lengths. ~~(3-18-22)~~( )

07. Seawalls. Seawalls should be placed at or above the ~~ordinary high water mark, or the artificial high water mark~~ O/AHWM, if ~~applicable~~ possible. Seawalls are ~~not an aid to navigation,~~ nonnavigational and placement waterward of the ~~ordinary or artificial high water mark~~ O/AHWM will generally not be allowed. ~~(3-18-22)~~( )

08. Riprap. (3-18-22)

a. Riprap used to stabilize shorelines will consist of rock or other materials that ~~is~~ are appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer ~~which~~ that consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the ~~ordinary or artificial high water mark~~ O/AHWM, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho. ~~(3-18-22)~~( )

b. Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into

the bed and may not require a filter layer, at the Department's discretion. (3-18-22)

09. Mooring Buoys. Buoys must be installed a minimum of thirty (30) feet away from littoral right lines of adjacent littoral owners. One (1) mooring buoy per littoral owner may be allowed for single-family encroachments. ~~(3-18-22)~~( )

10. Float Homes. (3-18-22)

a. Applications for permits to construct new float homes, convert existing encroachments into float homes, or to expand the total square footage of the existing footprint, will not be accepted. ~~(3-18-22)~~( )

b. ~~Applications for relocation of~~A permit is required to relocate, rebuild, or add another story to existing float homes ~~within a lake or from one (1) lake to another~~. Applications are subject to the following requirements: ~~(3-18-22)~~( )

i. The applicant must provide ~~P~~proof of ownership or long term lease of the uplands~~s~~ parcels adjacent to the relocation site ~~must be furnished to the Department~~. ~~(3-18-22)~~( )

ii. The applicant must provide detailed, scaled drawings approved by an engineer licensed in the state of Idaho that accurately illustrate and depict all interior and exterior features, layouts, and dimensions. ( )

iii. The applicant must show that all wastes and waste water will be transported to shore disposal systems by a method approved by the Idaho Department of Environmental Quality or the appropriate local health authority. Applicant must either obtain a letter from the local sewer district stating that the district will serve the float home or demonstrate that sewage will be appropriately handled and treated. Applicant must also provide a statement from a professional plumber licensed in the state of Idaho that the plumbing was designed in accordance with IDAPA 24.39.20, ~~"Rules Governing Plumbing,"~~ as incorporated by reference in Section 003 of these rules, installed properly, and has been pressure tested. (3-18-22)

~~**c.** Encroachment applications and approved local permits are required for replacement of, or adding another story to, a float home. (3-18-22)~~

~~**d.** All plumbing work on float homes must be done in accordance with IDAPA 24.29.20, "Rules Governing Plumbing" and IDAPA 29.39.10, "Rules of the Idaho Electrical Board," as incorporated by reference in Section 003 of these rules. (3-18-22)~~

~~**e.** All float homes in Idaho that connect with upland sewer or septic systems must implement the following standards by December 31, 2012: (3-18-22)~~

~~i. The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed. (3-18-22)~~

~~ii. Grinders or solids handling pumps must be used to move sewage from the float home to the upland system. (3-18-22)~~

~~iii. If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on either end of this pipe may not significantly reduce the interior diameter. (3-18-22)~~

~~iv. The pipeline from the float home to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused HDPE, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the lake or river level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other~~

~~lake related uses.~~ ~~(3-18-22)~~

~~v. Manifolds below the ordinary, or artificial if applicable, high water mark that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All float homes must have an individual sewer line from the float home to a facility on the shore.~~ ~~(3-18-22)~~

~~f. All float home permittees will have their float homes inspected by a professional plumber licensed in the state of Idaho by December 31, 2012. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the float homes meet the standards in Paragraph 015.10.e. of these rules, and will be provided to the Department before the above date.~~ ~~(3-18-22)~~

~~g. A float home permittee must request an extension, and give cause for the extension, if their float home does not meet the standards in paragraph 015.01.e. of these rules by December 31, 2012. Extensions beyond December 31, 2016 will not be allowed. A permittee's failure to either request the extension, if needed, or to meet the December 31, 2016 deadline will be a violation subject to the provisions of Section 080 of these rules.~~ ~~(3-18-22)~~

~~h. Construction or remodel work on a float home that costs fifty percent (50%) or more of its assessed value will require an encroachment application and construction drawings stamped by an engineer licensed in the state of Idaho.~~ ~~(3-18-22)~~

11. Excavat~~ed~~ing or Dredg~~ed~~ing ~~Channel~~. ~~(3-18-22)~~( )

a. Excavating~~,~~ or dredging~~, or redredging channels~~ require~~s~~ an encroachment permit and are processed in accordance with Section 030 of these rules. ~~(3-18-22)~~( )

b. ~~An excavated or dredged channel or basin to provide~~Dredging to improve access to navigable waters must have a clear environmental, economic, or social benefit to the ~~people of the state~~ public, and must not result in any appreciable environmental degradation. ~~A channel or basin~~ Dredging will not be approved if the cumulative effects of these features ~~in the same navigable lake~~ would be adverse to fisheries or water quality. ~~(3-18-22)~~( )

c. Whenever practical, ~~such channels or basins~~ dredging must ~~be located to serve~~ benefit more than one (1) littoral owner or a commercial marina; provided, however, ~~that no basin or channel~~ dredging will not be approved that will provide access for watercraft to nonlittoral owners. ~~(3-18-22)~~( )

12. ATONs. Aids to Navigation will conform to the requirements established by the United States Aid to Navigation system. (3-18-22)

13. General Encroachment Standards. (3-18-22)

a. Square Footage. The square footage limitations in Subsections 015.01 and 015.02 include all ~~structures~~ encroachments beyond the ~~ordinary or artificial high water mark such as~~ O/AHWM including the approach, ramp, pier, dock, and all other floating or suspended structures that cover the lake surface, except for: ~~(3-18-22)~~( )

i. Boat lifts as allowed pursuant to Paragraph 015.13.b. (3-18-22)

ii. Jet ski ramp, port, or lift as allowed pursuant to Paragraph 015.13.b. (3-18-22)

iii. Slip covers. (3-18-22)

iv. Undecked portions of breakwaters. (3-18-22)

b. Boat Lifts and Jet Ski Lifts. (3-18-22)

i. Single-family docks are allowed ~~a single~~ one (1) boat lift and two (2) jet ski lifts, or two (2) boat lifts, ~~without adding their footprint to the dock~~ which are not included in calculating total square footage. Additional

lifts will ~~require that~~ include fifty percent (50%) of the ~~footprint~~ square footage of the largest lifts ~~be included in the~~ into calculating total allowable square footage ~~of the dock or pier~~ as per Subsection 015.01. ~~(3-18-22)~~( )

ii. Two-family docks are allowed either two (2) boat lifts and four (4) jet ski lifts, or four (4) boat lifts, ~~without adding their footprint to the dock~~ which are not included in calculating total square footage. Additional lifts will ~~require that~~ include fifty percent (50%) of the ~~footprint~~ square footage of the largest lifts ~~be included in the allowable square footage of the dock or pier~~ into calculating total allowable square footage as per Subsection 015.01. ~~(3-18-22)~~( )

iii. A boat lift or jet ski lift within lines drawn perpendicular from the shore to the outside dock edges will not require a separate permit if the lift is outside the ten (10) foot adjacent littoral owner setback, the lift does not extend beyond the line of navigability, and the lift does not count toward the square footage of the dock as outlined in Subparagraphs 015.13.b.i. and 015.13.b.ii. The permittee must send a revised permit drawing with the lift location as an application to the Department. If the lift meets the above conditions, the application will be approved as submitted. Future applications must include the lifts. (3-18-22)

iv. Community docks are allowed either one (1) boat lift or two (2) jet ski lifts per moorage. Boat lifts placed outside of a slip must be oriented with the long axis parallel to the dock ~~structure~~. Additional lifts will require that fifty percent (50%) of their footprint be included in the allowable square footage of the dock or pier as per Subsection 015.02. ~~(3-18-22)~~( )

c. Angle from Shoreline. (3-18-22)

i. Where feasible, all docks, piers, or similar structures must ~~be constructed so as to protrude as nearly as possible~~ protrude at right angles to the general shoreline~~, lessening the potential for~~ as nearly as possible to minimize infringement on adjacent littoral rights. ~~(3-18-22)~~( )

ii. Where ~~it is not feasible to place docks at~~ right angles to the ~~general~~ shoreline are not feasible, the Department will work with the applicant to ~~review and approve the applicant's proposed~~ design an acceptable alternative configuration and ~~location of the dock and the dock's~~ angle from shore. ~~(3-18-22)~~( )

d. Length of Community Docks and Commercial Navigational Encroachments. Docks, piers, or other ~~works~~ encroachments may extend ~~to a length that will provide~~ as far as necessary to access ~~to~~ a water depth that will afford sufficient draft for water craft ~~customarily in use on the particular body of water, except that no structure may extend beyond~~ within the normal accepted line of navigability ~~established through use unless additional length is authorized by permit or order of the Director~~. The Department may authorize a longer or shorter length if justified by specific site conditions. If a ~~normally accepted~~ line of navigability has not been established through use, the ~~Director~~ Department may ~~from time to time as he deems necessary,~~ designate a line of navigability for the purpose of effective administration of these rules. ~~(3-18-22)~~( )

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have ~~a like~~ an adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral ~~owner or~~ owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse ~~a~~effects. ~~(3-18-22)~~( )

f. Weather Conditions. Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices ~~for docks, float homes, etc~~. must be reasonably resistant to puncture and other damage. ~~(3-18-22)~~( )

g. Markers. If the Department determines that an encroachment is not of sufficient size to be readily seen or poses a hazard to navigation, the permit will specify ~~that aids to navigation be used~~ the use of ATONs to clearly identify the ~~potential~~ navigational hazard. ~~(3-18-22)~~( )

h. All encroachments that connect with upland sewer or septic systems must implement the following standards: ( )

i. The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed. ( )

ii. Grinders or solids handling pumps must be used to move sewage from the encroachment to the upland system. ( )

iii. If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on either end of this pipe may not significantly reduce the interior diameter. ( )

iv. The pipeline to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused High-Density Polyethylene, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the water level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other lake related uses. ( )

v. Manifolds below the O/AHWM that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All encroachments must have an individual sewer line from the encroachment to a facility on the shore. ( )

vi. All permittees will have their encroachment inspected by a professional plumber licensed in the state of Idaho. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the encroachment meets the standards in Paragraph 015.13.h. of these rules, and will be provided to the Department within thirty (30) days of any modification that impacts plumbing. ( )

i. All electrical work installed on encroachments must be done in accordance with IDAPA 24.39.10, as incorporated by reference in Section 003 of these rules. ( )

j. All plumbing work on encroachments must be done in accordance with IDAPA 24.39.20, as incorporated by reference in Section 003 of these rules. ( )

k. All encroachments beyond the O/AHWM mark must adhere to the safety standards set forth in IDAPA 18.08.01, as incorporated by reference in Section 003 of these rules. ( )

~~h~~**l.** Overhead Clearance. (3-18-22)

i. Overhead clearance between the ~~natural or ordinary high water mark or the artificial high water mark, if there be one,~~ O/AHWM and the structure or wires must be sufficient to pass the largest vessel that may reasonably be anticipated to use the ~~subject~~ waters in the vicinity of the encroachment. ~~In no case will the clearance be required to exceed~~ The clearance must not exceed thirty (30) feet unless after public hearing, the Department determines ~~after public hearing~~ that ~~it~~ a higher clearance is ~~in the overall public interest that the clearance be in excess of thirty (30) feet. Irrespective of height above the water, approval of~~ necessary for the public's benefit. Approval of structures or wires presenting a ~~hazard for boating or other water related activities~~ navigational hazard may ~~be conditioned upon~~ require adequate safety marking to show clearance and ~~otherwise to~~ warn the public of the hazard, which will be specified. ~~The Department will specify~~ in the permit ~~the amount of overhead clearance and markings required~~. ~~(3-18-22)~~( )

ii. When the permit provides for overhead clearance or safety markings under Paragraph 015.13.h., the Department will consider the applicable requirements of the United States Coast Guard, the Idaho Transportation Department, the Idaho Public Utilities Commission and any other applicable federal, state, or local ~~regulations~~ laws.

~~(3-18-22)~~( )

~~i~~m. Beaded Foam Flotation. Beaded foam flotation must be completely encased in a manner that will maintain the structural integrity of the foam. The encasement must be resistant to the entry of rodents. (3-18-22)

14. Floating Toys. (3-18-22)

~~a. Encroachment permits are not required for floating toys, except where noted in Paragraph 015.14.b. Counties and cities may regulate floating toys for public safety and related concerns.~~ ~~(3-18-22)~~

~~b~~a. ~~A floating toy becomes a nonnavigational~~An encroachment, and an encroachment permit is required~~, when one (1) of the following occurs:~~ for floating toys when they are anchored to the lakebed with an anchor that requires equipment for removal or when located waterward of the line of navigability for more than twenty-four (24) consecutive hours. ~~(3-18-22)~~( )

~~i. It is anchored to the bed of the lake with a device that requires equipment to remove it from the bed of the lake, or;~~ ~~(3-18-22)~~

~~ii. It is located waterward of the line of navigability for more than twenty-four (24) consecutive hours.~~ ~~(3-18-22)~~

15. Marine Motor Fuel Dispensing Facilities. ( )

a. Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit. ( )

16. Fill Material. ( )

a. The placing of any dredged or fill material on or in the beds or waters of any navigable lake is an encroachment and requires a permit from the Department. ( )

1~~5~~7. Lake Specific Encroachment Permit Terms. (3-18-22)

a. The Department may use encroachment permit conditions specific to individual ~~lakes~~ waterways if ~~the permit conditions are needed~~ necessary to protect public trust ~~values~~ resources and the permit condition is approved by the Land Board. ~~(3-18-22)~~( )

b. Lake specific encroachment permit conditions may supplement, negate, or alter encroachment standards established in Section 015 of these rules. (3-18-22)

c. Lake specific encroachment permit conditions will be used to assist with implementing lake management plans authorized by Title 39, Chapter 66, Idaho Code; Title 39, Chapter 85, Idaho Code; Title 67, Chapter 43, Idaho Code; and Title 70, Chapter 2, Idaho Code. ~~The purpose for using such lake specific permit conditions is to address lake specific environmental concerns that require attention and create a need for a variance from what is allowed on other lakes.~~ ~~(3-18-22)~~( )

d. Lake specific encroachment permit terms may be read at the Idaho Department of Lands website: https://www.idl.idaho.gov/. ~~(3-18-22)~~( )

016. -- 019. (RESERVED)

020. APPLICATIONS.

01. Encroachment Applications. No ~~person shall hereafter make or cause to be made any~~ encroachments on, in or above the beds or waters of any navigable lake in the state of Idaho are allowed without first making application to and receiving ~~written approval~~ an encroachment permit from the ~~d~~Department. ~~The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of~~

~~any navigable lake in the state of Idaho shall be considered an encroachment and written approval by the department is required. If demolition is required prior to construction of the proposed encroachment, then t~~ The application must ~~describe the~~ include a description of any demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued. ~~(3-18-22)~~( )

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner ~~shall be~~ are eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner ~~shall~~ is also ~~be~~ eligible for an encroachment permit; the grantor of ~~such~~ these littoral rights, however, ~~shall~~ are no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. ~~(3-18-22)~~( )

03. Other Permits. ~~Nothing in these rules shall excuse a~~ A person seeking to make an encroachment ~~from obtaining~~ must also obtain any additional approvals lawfully required by federal, local or other state agencies. ~~(3-18-22)~~( )

04. Repairs, Reinstallation of Structures. No permit is required to clean, maintain, or repair an existing permitted encroachment, but a permit is required to ~~completely~~ replace, enlarge, or extend an existing encroachment. Replacement of single-family and two-family docks ~~may~~ will not require a permit if ~~they meet the criteria in Section 58-1305(e), Idaho Code~~ the replacement is within current standards as provided in Idaho Code § 58-1305(e). ~~Reinstalling~~ Replacing the top or decking of ~~a dock, wharf or similar structure shall be~~ an encroachment is considered a repair~~; reinstallation~~. Replacement ~~of winter damaged or wind and water damaged~~ of wind or water damaged pilings, docks, or floats ~~logs shall be~~ is considered a repair. ~~Repairs, or replacements under Section 58-1305(e), Idaho Code,~~ Any repair or replacement that adversely affects the bed of the lake ~~will be considered~~ is a violation of these rules. ~~(3-18-22)~~( )

05. Dock Reconfiguration. (3-18-22)

a. ~~Rearrangement~~Reconfiguration or rearrangement of single-family and two-family docks will require a new application for an encroachment permit. ~~(3-18-22)~~( )

b. Reconfiguration or ~~R~~rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal and navigational. The ~~d~~Department ~~shall~~ must be consulted prior to commencement of modifications ~~being made~~, and ~~shall use~~ will consider the following ~~criteria~~ to ~~help~~ determine if a new permit ~~must be submitted~~ is required: ~~(3-18-22)~~( )

i. Overall footprint does not change in dimension or orientation; (3-18-22)

ii. No increase in the square footage, as described in the existing permit ~~and in accordance with Paragraph 015.13.a., occurs.~~ This only applies to community docks; ~~(3-18-22)~~( )

iii. The entrances and exits of the ~~facility~~ encroachment do not change~~.~~; ~~(3-18-22)~~( )

iv. The number of slips does not change. ( )

06. ~~Redredging~~Dredging. ~~Redredging~~ A permit is required before dredging or redredging a channel or basin ~~shall be considered a new encroachment and a permit is required~~ unless ~~re~~dredging is specifically authorized by ~~the outstanding~~ an existing permit. ~~Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permit.~~ ~~(3-18-22)~~( )

07. Forms, Filing. Applications ~~and plans shall~~ must be filed on forms provided by the Department together with filing fees and costs of publication when required by these rules. Costs ~~of preparation of~~ incurred to prepare the application, including all necessary maps and drawings, ~~shall~~ must be paid by the applicant. ~~(3-18-22)~~( )

a. Plans ~~shall~~ include detailed information to demonstrate compliance with the applicable standards of

these rules, and the following information at a scale sufficient to show the information requested: ~~(3-18-22)~~( )

i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile ~~shall show~~ must clearly depict the ~~summer and winter water levels~~ O/AHWM, the line of navigability, and the low water mark. ~~(3-18-22)~~( )

ii. Copy of most recent survey or county plat showing the full extent of the applicant's ~~lot~~ upland parcel and the adjacent ~~littoral lots~~ upland parcels. ~~(3-18-22)~~( )

iii. Proof of current ownership or control of ~~littoral~~ upland property or littoral rights. ~~(3-18-22)~~( )

iv. ~~A general vicinity map~~Scaled maps accurately depicting the location of all encroachments and their dimensions. ~~(3-18-22)~~( )

v. Scaled air photos or maps ~~showing~~ accurately depicting the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, distance to littoral lines, and the location and orientation of the proposed encroachment in the lake. ~~(3-18-22)~~( )

vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface. (3-18-22)

vii. Names and current mailing addresses of adjacent littoral landowners. (3-18-22)

viii. Plans submitted for enclosed encroachments must accurately depict all interior and exterior features. Public, commercial, and residential encroachments may require engineered plans approved by a professional engineer licensed in the state of Idaho. ( )

b. Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the ~~natural or ordinary high water mark~~ OHWM and the ~~artificial high water mark~~ AHWM, the application must be submitted or approved by the owner of ~~such~~ those lands. When the littoral owner is not the applicant, the application ~~shall~~ must bear the owner's signature as approving the encroachment prior to filing. ~~(3-18-22)~~( )

c. If more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of n entity or a designated homeowner's or property management association. ~~(3-18-22)~~( )

d. Applications for noncommercial ~~encroachments intended to improve waterways for navigation~~ ATONs, wildlife habitat, and ~~other~~ recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make ~~such~~ those improvements. Application fees are not required for these encroachments. ~~(3-18-22)~~( )

e. The following applications ~~shall~~ must be accompanied by the respective nonrefundable filing fees together with a deposit toward the cost of newspaper publication, which ~~deposit shall~~ will be determined by the ~~director~~ Department at the time of filing: ~~(3-18-22)~~( )

i. Nonnavigational encroachments require a fee of one thousand dollars ($1,000); except that nonnavigational encroachments for bank stabilization and erosion control require a fee of five hundred fifty dollars ($550). (3-18-22)

ii. Commercial navigational encroachments require a ~~base~~ fee of two thousand dollars ($2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by ~~Title 58, Chapter 13, Section~~ Idaho Code 58-1307, ~~Idaho Code~~; ~~(3-18-22)~~( )

iii. Community navigational encroachments require a fee of two thousand dollars ($2,000); and (3-18-22)

iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars ($1,000). (3-18-22)

f. Applicants ~~shall~~ must pay any balance due ~~on publication costs~~ before written approval will be issued. The Department ~~shall~~ will refund ~~any excess at or before final action on the application~~ any publication costs if the notice is not published. ~~(3-18-22)~~( )

g. Application for a single-family or two-family dock not extending beyond the line of navigability or a nonnavigational encroachment for a buried or submerged water ~~intake~~ line serving four or less households ~~shall~~ must be accompanied by a nonrefundable ~~filing~~ fee of four hundred twenty-five dollars ($425). ~~(3-18-22)~~( )

h. No publication cost is required for applications for noncommercial navigational encroachments not extending beyond the line of navigability or for application for installation of buried or submerged water intake lines and utility lines. ~~(3-18-22)~~( )

i. Applications and plans ~~shall~~ must be stamped with the date ~~of filing~~ received by the Department. ~~(3-18-22)~~( )

j. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication ~~when required, shall~~ will not be accepted for filing. The ~~d~~Department ~~shall~~ will send the applicant a written notice of incompleteness with a listing of the application's deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the ~~d~~Department. If the given deadline is not met, the ~~d~~Department will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply at a later date, but will be required to pay another filing fee and publication fee, if applicable. ~~(3-18-22)~~( )

021. -- 024. (RESERVED)

025. PROCESSING OF APPLICATIONS FOR SINGLE-FAMILY AND TWO-FAMILY NAVIGATIONAL ENCROACHMENTS ~~WITHIN LINE OF NAVIGABILITY~~.

01. Single-Family and Two-Family Navigational Encroachments. Applications for single-family and two-family navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and ~~shall~~ will not be denied except in the most unusual of circumstances. ~~No newspaper publication, formal appearance by the applicant, or hearing is contemplated.~~ ~~(3-18-22)~~( )

02. Notification of Adjacent Littoral Owners. The ~~d~~Department will provide a copy of the application to the littoral owners ~~immediately~~ adjacent to the applicant's property. If the applicant owns one (1) or more adjacent lots, the ~~d~~Department ~~shall~~ will notify the owner of the next adjacent lot. If the proposed encroachment may infringe upon the littoral rights of an adjacent owner, the ~~d~~Department will provide notice of the application by certified mail, return receipt requested; otherwise, the notice will be sent by regular mail. Notification will be mailed to the adjacent littoral owners' usual place of address, which, if not known, will be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent littoral owners' signatures, consenting to the proposed encroachment, in lieu of the ~~d~~Department's notification. ~~(3-18-22)~~( )

03. Written Objections. (3-18-22)

a. If an adjacent littoral owner files written objections to the application with the ~~d~~Department within ten (10) days from the date of service or receipt of notice of ~~the completed~~ application, the ~~d~~Department ~~shall fix a time and a place for~~ will schedule a hearing. In computing the time to object, the day of service or receipt of notice of the application ~~shall~~ will not be counted. Objections must be received by the Department within the ten (10) day period ~~by mail or hand delivery in the local department office or the director's office in Boise~~. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object ~~shall~~ will run until the end of the first business day thereafter. ~~(3-18-22)~~( )

b. The applicant and any objectors may agree to changes in the ~~permit~~ proposed encroachment that

result in the objections being withdrawn. Department employees may facilitate ~~any such~~ this agreement. Participation by ~~d~~Department personnel in this informal mediation ~~shall~~ will not constitute a conflict of interest for participation in the hearing process. A withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain: ~~(3-18-22)~~( )

i. Signatures of the applicant and the objecting party; (3-18-22)

ii. A description of the changes or clarifications to the permit that are acceptable to the applicant, the objecting party, and the ~~d~~Department. ~~(3-18-22)~~( )

04. Unusual Circumstances. Even though no objection is filed by an adjacent littoral owner to a noncommercial navigational encroachment, ~~if~~ the ~~d~~Director ~~deems it advisable~~ may require a hearing because of the existence of unusual circumstances~~, he may require a hearing~~. ~~(3-18-22)~~( )

05. Hearings. Hearings ~~fixed~~ set by the ~~d~~Director following an objection ~~pursuant to Subsection 025.03~~ or the Director's own determination ~~pursuant to Subsection 025.04 shall be fixed as to time and place, but no later than sixty (60) days from date of acceptance for filing of the application~~ will be held within sixty (60) days from the date the application is accepted. At the hearing, the Department the applicant and any adjacent ~~riparian~~ littoral owner filing timely objections may appear personally or through an authorized representative and present evidence. ~~The department may also appear and present evidence at the hearing. In such hearings the~~ The Director will designate a hearing ~~coordinator shall~~ officer who will act as a fact finder and not a party. ~~The Director, at his discretion, will designate a Department representative to sit as the hearing coordinator.~~ Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. ~~(3-18-22)~~( )

06. Decision Following a Hearing. The ~~d~~Director ~~shall~~ will, within forty-five (45) days after close of the hearing provided for in Subsections 025.03 or 025.04 render a final decision ~~and give notice thereof~~ to the parties appearing before him ~~either personally or by certified or registered mail. The final decision shall be in writing~~. ~~(3-18-22)~~( )

07. Disposition Without Hearing. If a hearing is not held under Subsection 025.03 or Subsection 025.04, then the ~~d~~Department ~~shall~~ will act upon a complete application ~~filed under Subsection 025.01~~ as expeditiously as possible but no later than sixty (60) days from acceptance of the application. Failure to act within this sixty (60) day timeframe ~~shall~~ will constitute approval of the application. Applications determined to be incomplete under Subsection 020.07 are not subject to the sixty (60) day timeframe until the information requested by the ~~d~~Department and required by the rules has been submitted. ~~(3-18-22)~~( )

08. Judicial Review. Any applicant aggrieved by the Director's final ~~decision~~ order, or an aggrieved party appearing at a hearing, ~~shall~~ may have a right to have the proceedings and final ~~decision~~ order reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final ~~decision~~ order. An ~~adjacent littoral owner shall~~ objector will be required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars ($500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the ~~d~~Director. The applicant need post no bond with the court to prosecute an appeal. ~~(3-18-22)~~( )

026. -- 029. (RESERVED)

030. PROCESSING OF APPLICATIONS FOR ALL OTHER TYPES OF ENCROACHMENTS.

01. Nonnavigational, Community, and Commercial Navigational Encroachments. Within ten (10) days of receiving a complete application for a nonnavigational encroachment, a community dock, a commercial navigational encroachment, or a navigational encroachment extending beyond the line of navigability, the Department will ~~cause to be~~ publish~~ed~~ a notice of application once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the encroachment is proposed. If, however, the Director orders a public hearing on the application within the time for publication of the above notice, the Department will dispense with publication of the notice of the application and proceed instead to publish a notice of the public hearing

as provided in Subsection 030.05. Applications for installation of buried or submerged water ~~intake~~ lines and utility lines are exempt from the newspaper publication process. ~~(3-18-22)~~( )

02. Encroachments Not in Aid of Navigation. Encroachments not in aid of navigation ~~in navigable lakes~~ will normally not be approved by the Department ~~and will be considered only~~ except in cases involving major environmental, economic, or social benefits ~~to the general public~~ that exceed the detrimental effects of the proposed encroachment to public trust values and adjacent real property, if any. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values. ~~(3-18-22)~~( )

03. Notifications. ~~Upon request or when the Department deems it appropriate, t~~ The Department may ~~furnish~~ provide copies of the application and plans to federal, state and local agencies and to adjacent littoral owners, requesting comment on the likely effect of the proposed encroachment upon adjacent littoral property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. ~~(3-18-22)~~( )

04. Written Comments or Objections. Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner ~~or lessee~~, or any resident of the state of Idaho may do one (1) of the following: ~~(3-18-22)~~( )

a. Notify the Department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or (3-18-22)

b. File with the Department written objections to the proposed encroachment and request a public hearing on the application. ~~The hearing must be specifically requested in writing.~~ Any person or agency requesting a public hearing on the application must deposit and pay to the Department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05. ~~(3-18-22)~~( )

05. Public Hearing. The Department will publish ~~N~~notice of the time and place of public hearing on the application ~~will be published by the Director~~ once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is proposed ~~, which~~. The public hearing will be held within ninety (90) days from the date the application is accepted for filing. ~~(3-18-22)~~( )

06. Hearing Participants. Any person may appear at the public hearing and present oral testimony. ~~Written comments will also be received by the Department~~ Persons may also submit written comments to the Department. ~~(3-18-22)~~( )

07. Decision After Hearing. The Director will render a final decision and order within thirty (30) days after close of the public hearing. A copy of ~~his~~ the final ~~decision~~ order will be mailed to the applicant and to each person or agency appearing at the hearing and giving oral or written testimony ~~in support of or in opposition to the proposed encroachment~~. ~~(3-18-22)~~( )

08. Decision Where No Hearing. (3-18-22)

a. ~~In the event~~If no objection to the proposed encroachment is filed with the Department and no public hearing is requested ~~under Subsection 030.04,~~ or ordered ~~by the Director under Subsection 030.01,~~ the Department ~~,~~ will issue a final decision and order based upon its investigation and ~~considering~~ consideration the economics of the navigational necessity, justification or benefit, public or private, of ~~such~~ the proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc ~~. will prepare and forward to the applicant its decision~~. ~~(3-18-22)~~( )

b. The applicant, if dissatisfied with the Director's decision, has twenty (20) days from the date of the Director's decision to request reconsideration thereof. If reconsideration is ~~required~~ granted, the Director will set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place the applicant may appear in person or through an authorized representative and present briefing and oral

argument. Upon conclusion of reconsideration, the Director will, by personal service or by registered or certified mail, notify the applicant of ~~his~~ the final decision. ~~(3-18-22)~~( )

09. Judicial Review. Any applicant or party aggrieved by the Director's final ~~decision, or an aggrieved party who appeared at a hearing~~ order, has the right to ~~have the proceedings and~~ judicial review of the final decision ~~of the Director reviewed~~ order by the district court in the county in which the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final ~~decision~~ order. The applicant need post no bond with the court to prosecute an appeal. Any other aggrieved party is required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars ($500), insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the Director. ~~(3-18-22)~~( )

10. Factors in Decision. In recognition of continuing private property ownership of lands lying between the ~~natural or ordinary high water mark~~ OHWM and the ~~artificial high water mark~~ AHWM, if present, the Department will consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the ~~natural or ordinary high water mark~~ OHWM. If no objections have been filed to the application and no public hearing has been requested or ordered by the Director, or, if upon reconsideration of a decision disallowing a permit, or following a public hearing, the Department determines that the benefits, whether public or private, to be derived from allowing ~~such~~ the encroachment exceed its detrimental effects, the permit will be granted. ~~(3-18-22)~~( )

031. -- 034. (RESERVED)

035. TEMPORARY PERMITS.

01. Applicability. Temporary permits ~~are used~~ may be issued for construction, demolition, temporary activities related to permitted encroachments, or other activities approved by the Department. ~~(3-18-22)~~( )

02. Permit Term. ~~These~~ Temporary permits are generally issued for less than one (1) year, but longer terms may be approved by the Department and permits may be extended with Department approval. ~~(3-18-22)~~( )

03. Bonding. The Department may require ~~bonds~~ bonding for temporary permits. ~~(3-18-22)~~( )

04. Fee. The ~~b~~Board sets fees for temporary permits, but the fees will not be greater than the amounts listed for the respective permit types in Subsection 020.07. Fee information is available ~~on the Internet~~ at www.idl.idaho.gov. ~~(3-18-22)~~( )

05. Processing. ~~These~~ Temporary permits may be advertised if the Department deems it appropriate, with the applicant paying the advertising fee as per Subsection 020.07. ~~(3-18-22)~~( )

036. -- ~~049.~~ ~~(RESERVED)~~

~~050. RECORDATION.~~
~~Recordation of an issued permit in the records of the county in which an encroachment is located is a condition of issuance of a permit and proof of recordation must be furnished to the Department by the permittee before a permit becomes valid. Such recordation is at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title, or interest on the permittee other than validation of said permit.~~ ~~(3-18-22)~~

~~051. —~~ 054. (RESERVED)

055. LEASES AND EASEMENTS.

01. Lease or Easement ~~Required~~. As a condition of the encroachment permit, the Department may require a submerged land lease or easement for use of any part of the state-owned bed of the lake where ~~such lease or easement is~~ required in accordance with ~~"Rules Governing Leases on State-owned Submerged Lands and Formerly~~

~~Submerged Lands,"~~ IDAPA 20.03.17, or ~~"Rules For Easements On State-owned Submerged Lands And Formerly Submerged Lands,"~~ IDAPA 20.03.09.~~ A lease or easement may be required for uses including, but not limited to, commercial uses.~~ Construction of an encroachment authorized by permit~~ without first~~ before obtaining the required lease or easement constitutes a trespass~~ upon state-owned public trust lands~~. This rule is intended to grant the state recompense for the use of the state-owned bed of a navigable lake where reasonable and it is not intended that the Department withhold or refuse to grant~~ such~~ a lease or easement if in all other respects the proposed encroachment would be permitted. ~~(3-18-22)~~( )

02. Seawalls, Breakwaters,~~ Quays~~ Fill. Seawalls, breakwaters, and~~ quays~~ fill on or over state-owned beds, designed primarily to create additional land surface, will only be authorized,~~ if at all,~~ by an encroachment permit and submerged land lease or easement, upon~~ determination~~ approval by the Department~~ to be an appropriate use of submerged lands~~. ~~(3-18-22)~~( )

056. -- 059. (RESERVED)

060. INSTALLATION.

01. Installation Only After Permit Issued. Installation or~~ on site~~ construction of an encroachment may commence only when the permit is issued~~ or,~~ when the ~~d~~Department notifies the applicant in writing that installation may~~ be~~ commence~~d~~, or when the ~~d~~Department has failed to act in accordance with Subsection 025.07. ~~(3-18-22)~~( )

02. Removal of Construction Waste. (3-18-22)

a. Pilings, anchors, old docks, and other structures or waste at the site of the installation or reinstallation and not used as a part of the encroachment~~ shall~~ must be removed from the water and lakebed at the time of the installation or reinstallation to a point above~~ normal flood water levels; provided, however, that this shall not be construed to prevent the use of trash booms for the temporary control of floatable piling ends and other floatable materials in a securely maintained trash boom, but approval for a trash boom shall be required as part of a permit~~ the O/AHWM. ~~(3-18-22)~~( )

b. Demolition of encroachments~~ shall~~ will be done in a manner that does not unnecessarily damage the lakebed or shoreline. Demolition work must comply with water quality standards administered by the Department of Environmental Quality. ~~(3-18-22)~~( )

03. Compliance with Permit. All work~~ shall~~ must be done in accordance with these rules, and the application submitted, and is subject to any condition specified in the permit. ~~(3-18-22)~~( )

04. Sunset Clause. All activities authorized within the scope of the encroachment permit must be completed within three (3) years of issuance date. If the activities are not completed within three (3) years, the permit ~~shall~~ will automatically expire unless it was previously revoked or extended by the ~~d~~Department. The ~~d~~Department may issue a permit with an initial sunset clause that exceeds three (3) years~~,~~ if the need is demonstrated by the applicant. ~~(3-18-22)~~( )

061. -- 064. (RESERVED)

065. ASSIGNMENTS.

01.~~ Assignment of~~ Encroachment Permit Assignment. Encroachment permits may be assigned~~ upon approval of the department provided that~~ only if the permitted~~ the~~ encroachments conform~~s~~ with the approved permits.~~ The assignor and assignee must complete a department assignment form and forward it to the appropriate area office~~ An assignment is not valid until it is approved by the Department. ~~(3-18-22)~~( )

02. Assignment Application~~ Fee~~. The~~ assignment fee is~~ assignor and assignee must complete a Department assignment form and submit along with the three hundred dollars ($300)~~ and is due at the time the assignment is submitted~~ assignment fee to the ~~d~~Department. ~~(3-18-22)~~( )

~~03. Approval Required for Assignment. An assignment is not valid until it has been approved by the department.~~ ~~(3-18-22)~~

043. **Assignment With New Permit**. Encroachments not in compliance with the approved permit may be assigned only if: (3-18-22)

a. An application for a new permit to correct the noncompliance is submitted at the same time. (3-18-22)

b. The assignee submits written consent to bring the encroachment ~~permit~~ into compliance. ~~(3-18-22)~~( )

066. -- 069. (RESERVED)

070. MISCELLANEOUS.

01. Water Resources Permit. A permit to alter a navigable stream issued by the Department of Water Resources pursuant to Title 42, Chapter 38, Idaho Code, may, in appropriate circumstances, contain language stating the approval of the Department of Lands to occupy the state-owned bed of the navigable stream. (3-18-22)

02. Dredge and Placer Mining. Department authorization is required for dredge and placer mining in the lands, lakes and rivers within the state, whether or not the state owns the beds, pursuant to Title 47, Chapter 13, Idaho Code. (3-18-22)

03. Mineral Leases. Littoral rights do not include any right to remove bed materials from state-owned lakebeds. Applications to lease minerals, oil, gas and hydrocarbons, and geothermal resources within the state-owned beds of navigable lakes will be processed by the Department pursuant to Title 47, Chapters 7, 8 and 16, Idaho Code, and rules promulgated thereunder. (3-18-22)

04. Other Laws and Rules. The permittee must ~~comply with~~ follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources. ~~(3-18-22)~~( )

071. -- 079. (RESERVED)

080. VIOLATIONS - PENALTIES.

01. Cease and Desist Order. ~~When the Department determines that a violation of these rules is occurring due to the o~~ Ongoing construction of an unauthorized encroachment or an unauthorized modification of a permitted encroachment~~, it may provide the~~ is considered a violation of these rules. The Department will serve the landowner, contractor, or permittee ~~with a written cease~~ a cease and desist order that ~~consists of~~ contains a short and plain statement ~~of what the violation is,~~ describing the violation, the pertinent legal authority, and how the violation may be rectified. This order will be served by personal service or certified mail. The cease and desist order ~~is used to~~ will require the permittee to maintain the status quo pending formal proceedings by the Department to rectify the violation. ~~(3-18-22)~~( )

02. Notice of Noncompliance/Proposed Permit Revocation. When the Department determines that these rules have been violated, a cause exists for revocation of a lake encroachment permit, or both of these have occurred, it will provide the permittee or offending person with a notice of noncompliance/proposed permit revocation that consists of a short and plain statement of the violation including any pertinent legal authority. This notice also informs the permittee or offending person of what steps are needed to either bring the encroachment into compliance, if possible~~, or avoid revocation, or both~~. ~~(3-18-22)~~( )

03. Noncompliance Resolution. The Department will attempt to resolve all noncompliance issues through conference with the permittee or other involved party. Any period set by the parties for correction of a violation is binding. If the Department is unsuccessful in resolving the violations, then the Department may pursue other remedies under Section 080 of these rules. (3-18-22)

04. Violations. The following acts or omissions subject a person to a civil penalty as allowed by Title 58, Chapter 13, Section 58-1308, Idaho Code: (3-18-22)

a. A violation of ~~the provisions of~~ Title 58, Chapter 13, Idaho Code, or of the rules and general orders adopted and applicable to navigable lakes; ~~(3-18-22)~~( )

b. A violation of any special order of the Director applicable to a navigable lake; or (3-18-22)

c. Refusal to cease and desist from any violation ~~in regards to a navigable lake~~ after having received a written cease and desist order from the Department by personal service or certified mail, within the time provided in the notice, or within thirty (30) days of service of ~~such~~ the notice if no time is provided. ~~(3-18-22)~~( )

d. Willfully and knowingly falsifying any records, plans, information, or other data ~~required by these rules~~ provided to the Department. ~~(3-18-22)~~( )

e. Violating the terms of an encroachment permit. (3-18-22)

05. Injunctions, **Damages**. The Board expressly reserves the right, through the Director, to seek injunctive relief under Title 58, Chapter 13, Section 58-1308, Idaho Code and mitigation of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties provided for in Subsection 080.04 of these rules. (3-18-22)

06. Mitigation, Restoration. The ~~b~~Board expressly reserves the right, through the Director, to require mitigation and restoration of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties and injunctive relief provided for in Subsections 080.04 and 080.05 of these rules. The Department may consult with other ~~state~~ agencies to determine the appropriate type and amount of mitigation and restoration ~~required~~. ~~(3-18-22)~~( )

07. Revocation of Lake Encroachment Permits. (3-18-22)

a. The Department may institute an administrative action to revoke a lake encroachment permit for violation of the conditions of a permit, or for any other reason authorized by law. ~~All such~~ These proceedings will be conducted as contested case hearings subject to ~~the provisions of~~ Title 67, Chapter 52, Idaho Code~~, and IDAPA 20.01.01, "Rules of Practice and Procedure before the State Board of Land Commissioners."~~. ~~(3-18-22)~~( )

b. A hearing officer appointed to conduct the revocation hearing prepares recommended findings of fact and conclusions of law and ~~forward~~ sends them to the Director for final adoption or rejection. ~~(3-18-22)~~( )

c. An aggrieved party who appeared and testified at a hearing has the right to have the proceedings and final decision of the Director reviewed by the district court of the county in which the violation or revocation occurred by filing a notice of appeal within twenty-eight (28) days from the date of the final decision. (3-18-22)

081. -- 999. (RESERVED)

IDAPA 21 – DIVISION OF VETERANS SERVICES

21.01.01 – RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-2501 (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 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 65-202, 65-204, and 66-907, 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 change excises obsolete language related to the no longer existing domiciliary and residential program at the Idaho State Veterans Home in Boise. Additionally, it updates language regarding the skilled nursing program in line with changes to federal Centers for Medicare & Medicaid Services (CMS) regulations in the Code of Federal Regulations (CFR).

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 2, 2025 Idaho Administrative Bulletin, Vol. 25-7, pages 106-122.

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking: N/A.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Wallior, 208-780-1308.

DATED this August 13, 2025.

Kevin R. Wallior, Management Assistant
Idaho Division of Veterans Services
351 N. Collins Road
Boise, ID 83702
Ph: 208-780-1308; fax: 208-780-130
Email: kevin.wallior@veterans.idaho.gov

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 – RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

DOCKET NO. 26-0120-2501 (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. This action is authorized pursuant to Sections 67-4223 and 67-4249 Idaho Code.

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

Thursday, September 04, 2025
2:00 p.m. (MT)

Meeting held via Microsoft Teams:

Join the meeting now
Meeting ID: 274 142 798 698 2
Passcode: Fa69cJ6W

Dial in by phone
+1 208-985-2810,,201008657# United States, Boise
Phone conference ID: 201 008 657#

Join on a video conferencing device
Tenant key: idahogov@m.webex.com
Video ID: 119 579 022 0

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 Department is considering changes that remove outdated references, clarify unclear language, update fees to align with economic climate. The Department is adding language to clarify authority for enforcing board policy. It is anticipated that rulemaking stakeholders will propose and advocate for rulemaking changes as part of the negotiated rulemaking process. The Department 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.

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

- All fees listed below are maximum fees. The board has the authority to set actual fees under Idaho Code 67-4223.
- Proposed fees maximums are being recommended to address rising service, maintenance, electricity, and water costs.
- All fees, except for campsite fees, have been charged at the maximum rate for many years and do not keep up with the rising costs to provide services.

FEE SCHEDULE: FEE COLLECTION SURCHARGE.

Category	Fee
Fee Collection Surcharge	$~~25~~35/day

FEE SCHEDULE: ENTRANCE.

Category	Fee
Daily MVEF	$~~7~~10/day/vehicle
Annual MVEF	$~~80~~100/year/vehicle
Annual MVEF Replacement	$5/vehicle
Commercial Motor Vehicle Entrance	$~~50~~100/day/vehicle
Admission	$20/person

FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.

Category	Fee
Basic Campsite: site may have water	$~~34~~42/day
Electric Campsite: site has electricity and may have water	$~~42~~56/day
Full Hook-up Campsite: site has electricity, water, and sewer	$~~46~~60/day
Companion Campsite: site has electricity and may have water	$~~84~~112/day
Hike-in/Bike-in Campsite	$12/person/day
Extra Vehicle	$8/day
Overnight Use of Parking Areas	$20/night/vehicle, trailer, or vehicle with attached trailer
Use of Campground Showers by Non-campers	$~~3~~5/person/day
Camping Cabins and Yurts	$500/night
Each additional person above the base occupancy of camping cabin or yurt	$12/person/night
Pets	$15/pet/night
Cleaning	$50

FEE SCHEDULE: GROUP CAMPSITE OR FACILITY.

Category	Fee
Reservation Service Charge (non-transferable, non-refundable)	$~~25~~50
Group use of day use facility, overnight facility, or group camp (set by park or program manager)	Varies
Each additional person above the base occupancy of the overnight facility	$12/person/night

FEE SCHEDULE: BOATING FACILITIES.

Category	Fee
Vessel Launching	MVEF or $~~7~~10/ day/vessel
Overnight moorage at dock or buoy, person staying at campsite or facility and not staying on the vessel	$~~9~~10/night
Overnight moorage at dock, person staying on vessel	$10/night
Overnight moorage at buoy, person staying on vessel	$~~9~~10/night

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:

There is no impact to the 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 May 07, 2025, Idaho Administrative Bulletin, Vol. 25-05, page 66. This chapter was erroneously labeled as a ZBR chapter in Idaho Administrative Bulletin, Vol. 25-05. This chapter is NOT a ZBR chapter.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text, contact Seth Hobbs, (208) 514-2427, seth.hobbs@idpr.idaho.gov. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the department's website at the following web address: https://parksandrecreation.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 September 24, 2025.

DATED this 2nd day of July, 2025.

Seth Hobbs
Idaho Department of Parks and Recreation
5657 Warm Springs Ave.
Boise, ID 83716
Phone: (208) 514-2427

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 26-0120-2501
(Only Those Sections With Amendments Are Shown.)

26.01.20 – RULES GOVERNING THE ADMINISTRATION OF PARK AND RECREATION AREAS AND FACILITIES

075. AUTHORITY CONFERRABLE ON EMPLOYEES - ENFORCEMENT.

01. Park or Program Manager Authority. A park or program manager may enforce all rules, deny entry to, or reservation of, any department day use area, campsite, or facility, to any individual or group whose prior documented behavior has violated department rules, whose activities are incompatible with operations, or whose activities will violate department rules. A park or program manager may enforce board policies and establish interim directives which apply to the public safety, use, and enjoyment or protection of natural, cultural, or other resources within lands administered by the department. ~~(7-1-24)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

204. WINTER RECREATION PROGRAMS.

The department manages two winter recreation programs: the winter access program which provides for recreation within state parks and the winter recreational parking pass program which provides for recreation outside of state parks. (3-18-22)

01. Winter Access Program. The purpose of the winter access program is to fund state park services such as maintaining parking areas, providing warming facilities and winter-accessible restroom facilities, regularly grooming trails, signing ski routes, and having ski patrol services available. Any person using winter access program facilities must purchase and properly display a daily or season pass. Winter access program areas are designated by board policy. (3-18-22)

02. Winter Recreational Parking Permits. The purpose of the winter recreational parking permit program, known as "Park N Ski", is to designate winter recreational parking locations and use the funds from permit sales to maintain the designated parking areas. Winter recreational parking areas are designated by board policy. (3-18-22)

~~**a.** Permit. Any person parking a vehicle in a designated winter recreation parking location must purchase and properly display a winter recreation parking permit, except, snowmobilers may park their transportation vehicles in a designated parking area without displaying a parking permit when a current snowmobile validation sticker is affixed to the snowmobile. (3-18-22)~~

~~**b**~~**a.** Designation of Primary Use Area. The purchaser of a permit will be allowed to designate on the appropriate form, a primary winter recreational parking use area. The full portion of fees not allocated to the vendor or the department will be apportioned to the designated use area. Should a purchaser fail to designate a primary use area, those fees will be apportioned to a use area determined by the department. (3-18-22)

~~**c**~~**b.** Parking Restrictions. No person may park a vehicle in a designated winter recreational parking location in such a manner as to deprive other users of reasonable access to all or part of the remainder of that parking area. (3-18-22)

~~**d.** Permit Location. An annual winter recreational parking permit must be permanently affixed on the front window of the vehicle nearest the driver's seat. A temporary three-day permit must be displayed on the vehicle's dashboard with the dated side displayed to the front of the vehicle in such a manner that it is completely visible and kept in legible condition. (3-18-22)~~

~~**e**~~**c.** Replacement Permits. No person may file or attempt to file for a duplicate annual winter recreational parking permit unless the original permit was stolen or destroyed. A temporary three (3) day winter recreational parking permit which is lost, stolen, or destroyed will not be reissued. (3-18-22)

~~f~~d. Transfer. No person may transfer or attempt to transfer an annual winter recreational parking permit decal or a temporary three-day permit from the vehicle upon which it was legally permitted and placed. (3-18-22)

~~g. Permit Expiration. The annual winter recreational parking permit is valid until the expiration date printed on the decal. The temporary winter recreational parking permit is valid for only the three (3) consecutive days written on the permit.~~ ~~(3-18-22)~~

(BREAK IN CONTINUITY OF SECTIONS)

245. FEE SCHEDULE: FEE COLLECTION SURCHARGE.

Category	Fee
Fee Collection Surcharge	$~~25~~35/day

~~(3-18-22)~~( )

246. (RESERVED)

247. FEE SCHEDULE: ENTRANCE.

Category	Fee
Daily MVEF	$~~7~~10/day/vehicle
Annual MVEF	$~~80~~100/year/vehicle
Annual MVEF Replacement	$5/vehicle
Commercial Motor Vehicle Entrance	$~~50~~100/day/vehicle
Admission	$20/person

~~(3-18-22)~~( )

248. -- 249. (RESERVED)

250. FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.

Category	Fee
Basic Campsite: site may have water	$~~34~~42/day
Electric Campsite: site has electricity and may have water	$~~42~~56/day
Full Hook-up Campsite: site has electricity, water, and sewer	$~~46~~60/day
Companion Campsite: site has electricity and may have water	$~~84~~112/day
Hike-in/Bike-in Campsite	$12/person/day
Extra Vehicle	$8/day
Overnight Use of Parking Areas	$20/night/vehicle, trailer, or vehicle with attached trailer
Use of Campground Showers by Non-campers	$~~3~~5/person/day

Category	Fee
Camping Cabins and Yurts	$500/night
Each additional person above the base occupancy of camping cabin or yurt	$12/person/night
Pets	$15/pet/night
Cleaning	$50

~~(3-18-22)~~( )

251. -- 253. (RESERVED)

254. FEE SCHEDULE: GROUP CAMPSITE OR FACILITY.
Group Facility Fees. Reservation service fee, designated group campground or facility.

Category	Fee
Reservation Service Charge (non-transferable, non-refundable)	$~~25~~50
Group use of day use facility, overnight facility, or group camp (set by park or program manager)	Varies
Each additional person above the base occupancy of the overnight facility	$12/person/night

~~(3-18-22)~~( )

255. (RESERVED)

256. FEE SCHEDULE: BOATING FACILITIES.
Boating Facilities:

Category	Fee
Vessel Launching	MVEF or $~~7~~10/ day/vessel
Overnight moorage at dock or buoy, person staying at campsite or facility and not staying on the vessel	$~~9~~10/night
Overnight moorage at dock, person staying on vessel	$10/night
Overnight moorage at buoy, person staying on vessel	$~~9~~10/night

~~(3-18-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

276. FEE SCHEDULE: RESERVATIONS.

Category	Fee
Reservation Service Charge, individual campsite or facility	Current RV sticker or $10/campsite or facility

Category	Fee
Reservation Service Charge, group reservation for campsite or facility	$25
Modification	$10/campsite or facility
Cancellation, individual campsite or facility, prior to check-in time	$10/campsite or facility
Cancellation, individual campsite or facility, after check-in time	First night's fee
Cancellation, special use campsite or facility, more than 21 days in advance	$50/facility
Cancellation, special use campsite, individual campsite or facility, 21 days or less in advance	First night's or daily usage fee

~~(3-18-22)~~( )

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-2501 (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: A public hearing concerning this rulemaking will be held as follows:

Thursday, September 18, 2025
10:00 a.m. (MT)

In Person:
Idaho State Tax Commission
11321 W Chinden Blvd., Bldg. 2
Boise, ID 83714
(Meeting to be held in the Coral Conference Room)

Join from the meeting link:
https://idahogov.webex.com/idahogov/k2/j.php?MTID=t06e169c2ac6dd869866b3dbd94da5c63
meeting number (access code): 2868 500 2239
meeting password: MSrp7eSeP59

Join by phone:
+1-415-655-0001 US Toll
Meeting number: 2868 500 2239

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 State Tax Commission will perform a critical and comprehensive review of the statutes and existing rules chapter. We will rewrite this chapter under the premise of zero-based rulemaking, as per Executive Order 2020-01: Zero Based Rule Regulation.

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 as a result of 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 May 7, 2025, Idaho Administrative Bulletin, Vol. 25-5, pages 70-71.

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 Philip Johnson at philip.johnson@tax.idaho.gov or (208) 334-7505.

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 16, 2025.

DATED this 22nd day of August, 2025.

Kimberlee Stratton, Rules Coordinator
Idaho State Tax Commission
11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0102-2501
(ZBR Chapter Rewrite.)

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY ~~(RULE 000)~~.
~~In accordance with~~ Sections 63-105, 63-3624, 63-3635, 63-3039, Idaho Code~~, the State Tax Commission has promulgated rules implementing the provisions of the Idaho Sales Tax Act. They are the State Tax Commission's official statement of policy relating to interpretations and applications of the Idaho Sales Tax Act~~. ~~(3-31-22)~~( )

001. ~~TITLE AND~~ SCOPE ~~(RULE 001)~~.

~~01.~~ ~~Title~~. ~~These rules are titled IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules."~~ ~~(3-31-22)~~

~~02.~~ ~~Scope.~~ These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose an excise tax upon each sale at retail of the sales price of all property subject to taxation under this act and on the storage, use, or other consumption in this state of tangible personal property. ~~(3-31-22)~~( )

~~002. ADMINISTRATIVE APPEALS (RULE 002).~~
~~This chapter allows administrative relief as provided in Sections 63-3045, 63-3045B, 63-3049, 63-3620, 63-3620A, 63-3621, 63-3622, 63-3623B, 63-3626, 63-3631, 63-3633, 63-3634, Idaho Code.~~ ~~(3-31-22)~~

~~003. INCORPORATION BY REFERENCE (RULE 003).~~
~~These rules incorporate IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules."~~ ~~(3-31-22)~~

004~~2~~. -- 010. (RESERVED)

011. MIXED TRANSACTIONS ~~(RULE 011)~~.
Sections 63-3609, 63-3612, 63-3613, Idaho Code~~.~~

01. Retail Sales of Tangible Personal Property Together with Services. The sales tax applies to retail sales of tangible personal property. ~~It does not apply to the sale of services except as stated in statute or rule. However, w~~When a retail sale of tangible personal property includes ~~incidental~~ services, the ~~tax applies to the~~ total amount charged~~, including fees for any incidental~~ is taxed, except those services ~~except separately stated transportation and installation fees. The fact that the charge for the tangible personal property results mainly from the labor or creativity of its maker does not turn a sale of tangible personal property into a sale of services. The cost of any product includes labor and manufacturing skill~~ excluded by statute. To determine whether a transaction is a retail sale of tangible personal property or a sale of services, the following tests are applied. ~~(3-31-22)~~( )

a. ~~To determine whether a transfer of tangible personal property is a taxable retail sale or is merely incidental to a service transaction, the proper test is to determine whether the transaction involves a consequential or inconsequential professional or personal service. If the service rendered is inconsequential, then the entire transaction is taxable. If a consequential service is rendered, then it will be determined whether the transfer of the tangible personal property is an inconsequential part of the transaction. If so, then none of the consideration paid is taxable.~~The taxability of a mixed transaction is determined by analyzing the object of the transaction and whether the buyer is seeking the service itself or the property produced by the service. If the tangible personal property is the object of the transaction, then the entire transaction is taxable. If the service is the object of the transaction, then it will depend on whether the transfer of the tangible personal property is an incidental part of the transaction. If so, then no part of the transaction is taxable. ~~(3-31-22)~~( )

~~b~~i. To determine whether a mixed transaction qualifies as a sale of services, the object of the transaction will be determined; that is, ~~is~~ whether the buyer is seeking the service itself, or the property produced by the service. ~~(3-31-22)~~( )

~~c~~ii. ~~When a mixed transaction involves the transfer of tangible personal property and the performance of a service, both of which are consequential elements whose costs may be separately stated, then two (2) separate transactions exist. The one attributable to the sale of tangible personal property is taxable while the other is not.~~When a retail sale involves the transfer of tangible personal property and the performance of a service, both of which are independent elements whose charges are separately stated, then the taxability of each charge is analyzed on its own. ~~(3-31-22)~~( )

02. ~~Determining the Type of Sale~~Examples. ~~To determine whether a specific sale is a sale of tangible personal property, a sale of services or a mixed transaction, all the facts surrounding the case will be studied and the tests described above applied. Here are some examples.~~Available at Sales and Use Tax Examples. ~~(3-31-22)~~( )

~~**a.** Example 1: An attorney is retained by a client to prepare the client's will. The attorney prepares the will, sees that it is properly executed and bills the client. The physical document, the will, is then transferred from the attorney to the client. This is a sale of services because the client's object is not to obtain the will itself, but to ensure that their estate is disposed of in a certain way when they die. Since, the transaction between the attorney and the client is not a retail sale of tangible personal property, no sales or use tax applies. However, the attorney pays sales or use tax when the attorney buys stationery and other equipment to prepare the will. Compare Example 5. (3-31-22)~~

~~**b.** Example 2: The attorney in Example 1 prepares a form book of wills which he intends to sell to other attorneys. The will the attorney prepared in Example 1 is included in the form book. The sale of the form book to other attorneys is a taxable retail sale of tangible personal property. From the buyer's point of view, the object of the sale is to obtain the book, which is tangible personal property. The fact that special skill or knowledge went into the preparation of the book and is reflected in the purchase price does not make the sale of the form book a service transaction. (3-31-22)~~

~~**c.** Example 3: An architect is hired to prepare construction plans for a house. He prepares the plans and delivers them to his client. As in the example of the attorney preparing the will, this is a sale of services and the transfer of the tangible personal property, the plans, is inconsequential the transaction. No sales or use tax is due on the sale of the plans. (3-31-22)~~

~~**d.** Example 4: The architect in Example 3 is asked to provide additional copies of the same plans to his original client or to a third party. The architect copies the plans on a duplicating machine and sells them to the requesting party. This is a taxable retail sale of tangible personal property, since the buyer's object is to obtain the~~

property, the plans. (3-31-22)

e. Example 5: An artist is commissioned to paint an oil portrait. When the portrait is completed, ownership is transferred to the client who pays the artist a lump-sum amount for the portrait. This is a taxable retail sale of tangible personal property because the buyer's object is to obtain the portrait. If the artist otherwise qualifies as a retailer, he is required to collect and remit sales tax on the sale of the portrait. (3-31-22)

f. Example 6: An automobile repair shop does repair work for a customer. To do the work, the shop replaces certain parts on the automobile. The repair shop bills its customer an amount for the repair parts and a separate amount for labor. This is a mixed transaction. As long as the sale of the tangible personal property, the parts, and the sale of services, the labor, are separately stated, sales tax is due only on the sale of the parts and not on the charge for labor. However, allocation of the total charge between parts and labor must be reasonable. If part of the charge for parts is unreasonably attributed to the cost of labor, the allocation may be adjusted by the Commission. (3-31-22)

g. Example 7: A retail clothing store provides needed alterations to items purchased by customers. Even though the sale depends on the alterations being done, the service is incidental to the sale of the property. The entire transaction is taxable, even if the charge for the alteration labor is separately stated. (3-31-22)

03. **Kinds of Services Incidental to the Sale**. Two (2) kinds of services rendered incidental to a retail sale are specifically exempt from tax if the charge for the service is separately stated. They are: (3-31-22)

a. Charges for transportation after the sale. See Section 63-3613, Idaho Code, and Rule 061 of these rules; and (3-31-22)

b. Installation charges. See Section 63-3613, Idaho Code, and Rule 012 of these rules. (3-31-22)

04. **Separately Stated Nontaxable Charges**. Separately stated nontaxable charges for transportation or installation may not be used to avoid tax on the actual sales price of tangible personal property. If the allocation of the total price is unreasonable, the Commission may adjust it. (3-31-22)

05. **Tangible Personal Property Used or Consumed by a Business**. Tangible personal property used or consumed by a business in performing a nontaxable service is taxable. See Rule 072 of these rules. (3-31-22)

012. CONTRACTORS IMPROVING REAL PROPERTY (RULE 012).
Sections 63-3609(a), 63-3621, 63-3615(b), 63-3622B, 63-3622D, 63-3622W, 63-3622X, 63-3622NN, 63-3622VV, 63-3622WW, Idaho Code

01. In General. This rule applies toA contractors is any person acting as a general contractor, subcontractor, contractee, subcontractee, or speculative builder who construct builds, alters, repairs, or improves real property. Contractors are defined as consumers of materials they use, whether or not they resell the material. All sales of tangible personal property to contractors are taxable. (3-31-22)( )

a. A contractor is any person acting as a general contractor, subcontractor, contractee, subcontractee, or speculative builder who uses material and equipment to perform any written or verbal contract to improve, alter, or repair real property.Contractors are the consumers of all the goods they use. As a result, they pay tax on their purchase or use of building materials, equipment, tools, and supplies, unless an exemption applies. (3-31-22)( )

b. Contractors include bricklayers, plumbers, heating specialists, painters, sheet metal workers, carpet layers, electricians, land levelers, well drillers, landscapers, and all others who do contract work on real property. Unless these persons are employees of a contractor, they are acting as contractors and are consumers just as other contractors.If a contractor doesn't pay tax on the purchase or use of building materials, equipment, tools, and supplies, they report and pay use tax to the state. See Section 072. (3-31-22)( )

c. Persons doing residential repairs, such as plumbers and electricians, as well as those who both sell and install carpet, also are contractors improving real property. Such contractors are defined as the consumers of the materials they install and are required to pay sales or use tax on their cost for the materials. They do not charge sales

tax to their customers unless they make a sale of materials only, with no installation. (3-31-22)

d. The terms "contractor" and "subcontractor" are not applicable to persons who merely sell tangible personal property in the form of building materials, supplies, or equipment to construction contractors for delivery at the job site without any requirement that they install such tangible personal property. (3-31-22)

02. Contract. A contract to improve real property may be in any of the following forms. (3-31-22)

a. Lump Sum Contract. A lump sum contract is an agreement to furnish materials and services for a lump sum. (3-31-22)

b. Cost-plus Contract. A cost-plus contract is an agreement to furnish materials and services at the contractor's cost plus a fixed sum or percentage of the cost. (3-31-22)

c. Guaranteed Price Contract. A guaranteed price contract is an agreement to furnish materials and services with a guaranteed price which may not be exceeded. (3-31-22)

d. Time and Material Contract. A time and material contract is an agreement to sell a specific list of materials and supplies at retail or an agreed price and to complete the work for an additional agreed price or hourly rate for services rendered. (3-31-22)

e. The contractor or repairman who affixes or installs the personal property into real property is the consumer of tangible personal property regardless of the type of contract entered into, whether it is a lump sum, time and material, or a cost-plus contract. (3-31-22)

03. Use. As used in this rule, the term use includes exercising any right or power over tangible personal property in performing a contract to improve real property, regardless of who owns the material or if the material is leased. (3-31-22)

042. Real Property. See Rules 010 and Section 067 of these rules. (3-31-22)( )

05. Use Tax Reporting Number. Contractors need a use tax number if they make purchases on which sales tax has not been charged. In this case, they are required to report and pay the Idaho use tax to the state. If a contractor pays sales tax to his vendors on ALL purchases, he does not have to obtain a use tax number. (3-31-22)

06. Purchases by Contractors. Contractors are consumers of equipment they use in their business such as trucks, tractors, road graders, scaffolding, pipe cutters, trowels, wrenches, tools in general, oxygen, acetylene, oil, and similar items. They pay sales or use tax on their purchase of equipment, tools, and supplies. They also pay tax on their purchase of building materials and fixtures. Fixtures include items such as lighting fixtures, plumbing fixtures, furnaces, boilers, heating units, air-conditioning units, refrigeration units, elevators, hoists, conveying units, awnings, blinds, vaults, cabinets, counters, and lockers. (3-31-22)

073. Fuels. A contractor pays sale or use tax on fuels used in off-road equipment unless on-road motor fuels excise taxes have been was paid. See Section 078. (3-31-22)( )

084. Custom-Made Goods. Sales tax applies to the entire price charged for custom-made goods sold by the maker. If a contractor orders purchases fabricated steel goods from a steel company supplier, he pays sales tax on the entire price of the fabricated item, including the cost of the charge for labor involved is taxable. On the other hand, iIf the contractor buys the steel material and fabricates it himself for the job and installs it into a real property improvement, he pays a tax only on the materials he buys is taxable. (3-31-22)( )

095. Value. The contractor owes use tax on the value of the job materials at the time they exercises right or power over them. Value, as used in Section 63-3621, Idaho Code, means: (3-31-22)

a. When a contractor fabricates and installs tangible personal property into Idaho real property, the value is the cost of materials and parts he used. If a contractor, with a contract to furnish and install goods, fabricates the goods and hires a subcontractor to do the installation, the taxable amount is the cost of material to the contractor

~~who fabricated the goods.~~ This is true even if that contractor hires a subcontractor to install. ~~(3-31-22)~~( )

~~**b.** When a contractor who is also a retailer fabricates tangible personal property, puts it in his resale inventory, and later withdraws it for a job, tax applies to the fully fabricated value. This is true regardless of whether the fabricator installs the property himself or through an agent or subcontractor.~~ ~~(3-31-22)~~

~~1~~06. Materials Provided by Project Owner. (3-31-22)

a. ~~If~~When a project owner who is ~~n~~~~o~~'t exempt from tax buys materials for a job and hires a contractor to install them, ~~he pays~~ sales or use tax is due when ~~he buys~~ the material is purchased. If the owner ~~does not~~ doesn't pay tax on the materials, the contractor ~~may be held~~ is liable for the tax. ~~(3-31-22)~~( )

b. ~~If material needed for a contract is purchased or supplied by an~~When a project owner who is exempt from sales and use tax~~es~~ buys materials for a job and hires a contractor to install them, ~~then the use by~~ the contractor is liable for the tax~~able~~ on the value of the materials. This is true even if the property is owned by an exempt entity such as the federal government or an ~~state~~ Idaho governmental agency. ~~For example, if a contractor has a public works contract to build a structure using materials owned and supplied by the government, whether federal, state, or local, he is the consumer of the materials and is subject to a use tax on their value. This tax falls directly upon the contractor and not the owner of the property.~~ ~~(3-31-22)~~( )

07. Materials Purchased on Behalf of Project Owner. ( )

a. When a project owner who is exempt from tax allows the contractor to buy building materials in the project owner's name, the contractor is liable for the tax on the value of the materials. ( )

~~e~~b. ~~A contractor who buys tangible goods cannot avoid tax just because the goods will be built into a structure which will belong to, or be used by an exempt entity.~~ Contractors ~~and subcontractors may not~~ can't avoid paying sales or use tax due to a contract ~~which~~ that allows ~~invoices~~ purchases to be made ~~out~~ in the name of the exempt entity~~, such as the U.S. Government,~~ and designates the contractor ~~or subcontractor~~ as an agent of ~~the exempt~~ that entity. ~~In this case, t~~The contractor ~~or subcontractor~~ is the ~~user or~~ consumer of the material and ~~its use, while it is in his possession and subject to his labor, is taxable~~ owes tax at the time of purchase. ~~(3-31-22)~~( )

~~**11. Subcontractor**. In general, a subcontractor is treated the same as a general contractor. Whether his contract is with the owner or the general contractor, the subcontractor pays tax on materials he buys to improve real property. Like any contractor, the subcontractor could be employed to work on or with material purchased by the general contractor or the owner, with one or the other paying tax on the material purchased. These services rendered by the subcontractor are not taxable. His relationship with the owner or general contractor is no different than the relationship between the contractor and owner. However, the provisions of Subsection 011.10 of this rule apply equally to a subcontractor.~~ ~~(3-31-22)~~

~~**12. Land Leveling**.~~ ~~(3-31-22)~~

~~**a.** Persons who contract to level land are improving real property and are contractors under this rule. Accordingly, they pay tax on equipment, material, and supplies purchased for land leveling.~~ ~~(3-31-22)~~

~~**b.** Notwithstanding the provisions of Rule 013 of these rules, contractors who crush rock are performing a nontaxable service if the rock is obtained on a construction site, and the crushed rock is used on the same site, for such purposes as backfill, land leveling, site preparation. or site cleanup. The use of such rock, backfill, or other related materials is not taxable; however, such a contractor is not primarily devoted to mining and his use of rock crushing equipment, or other equipment and supplies, does not qualify for exemption under Section 63-3622D, Idaho Code.~~ ~~(3-31-22)~~

~~**c.** The sale or use of crushed rock that is removed from a construction site and used elsewhere is taxable. See Rule 013 of these rules.~~ ~~(3-31-22)~~

~~**13. Exempt Purchases by Contractors**. A contractor can buy materials tax exempt, provided that he will install them into real property in a state that does not have a sales tax, such as Oregon, Montana, or Alaska, or in~~

~~a state where the materials would not be subject to a use tax or other similar excise tax in that state. For example, this exemption applies to a contractor improving real property on certain projects in Washington where he will not owe a use tax on materials incorporated into realty, even though a sales or use tax may be owed by a third party. This exemption only applies to materials incorporated into real estate in a nontaxing state. Tools, supplies, equipment, or any other tangible personal property purchased in Idaho that are not incorporated into realty are taxable when purchased in Idaho. In order to grant this exemption the retailer must have a properly completed exemption certificate on file. See Rule 128 of these rules. Idaho tax applies to materials purchased or withdrawn from inventory for use in a contract to improve real property in states where use tax applies to materials incorporated into realty, such as Nevada or Wyoming.~~ ~~(3-31-22)~~

~~**14. Cross-References**.~~ ~~(3-31-22)~~

~~**a.** Road and paving contractors, see Rule 013 of these rules.~~ ~~(3-31-22)~~

~~**b.** Contractor/retailers, see Rule 014 of these rules.~~ ~~(3-31-22)~~

~~**c.** Well drillers/pump installers, see Rule 015 of these rules.~~ ~~(3-31-22)~~

08. Examples. Available at Sales and Use Tax Examples. ( )

013. ROAD, ~~AND~~ PAVING, AND EARTHWORK CONTRACTORS ~~(RULE 013)~~.
Sections 63-3609, 63-3615, 63-3619 (f), 63-3622D, Idaho Code

01. In General. This rule illustrates the application of Idaho sales and use tax to specific activities of road ~~and~~, paving, and earthwork contractors. The general principles stated in ~~Rule~~ Section 012 ~~of these rules~~ apply ~~equally~~ to ~~road and paving~~ these contractors. ~~(3-31-22)~~( )

02. Road or Paving Contractor. A road or paving contractor is a contractor improving real property. The use of materials over which the contractor exercises right or power ~~in the course of~~ while performing ~~the~~ a contract is taxable. This is true even if an exempt entity, such as a government agency, owns the material. It is also true if the contractor does the work under the full or partial supervision of the person for whom the contractor is performing the contract. ~~(3-31-22)~~( )

~~**03. Examples**. Here are some examples of taxable materials contractors use in paving and road contracts:~~ ~~(3-31-22)~~

~~**a.** Example 1: A contractor is hired to pave a road for a city. The materials the contractor will use are taxable, regardless of ownership, and include rock, sand, asphalt oil, chemicals, bonding agents, or any other like materials which become the aggregate pavement.~~ ~~(3-31-22)~~

~~**b.** Example 2: A contractor is hired to chip seal a local road. The chip seal includes a layer of liquid asphalt or similar material applied to the road with an immediate layer of rock chips applied on top of the wet asphalt. A roller sets the rock chips in place. Once this dries, the surface is cleaned and another oil seal or like product is applied. These three items and any other materials used to form the aggregate chip seal are taxable.~~ ~~(3-31-22)~~

~~**c.** Example 3: A contractor is hired to perform landscaping for the barrow pits and shoulders of a new highway. The highway district provides the grass seed and some bushes for the project. The contractor provides labor to sow the seed, plant the bushes, and labor and materials to provide erosion control, land leveling, contouring, etc. The contractor owes sales or use tax on all materials consumed, including those provided by the highway district.~~ ~~(3-31-22)~~

~~**d.** Example 4: A contractor is hired to install a new bridge and provide drainage for a new freeway interchange. The highway district provides the bridge components and culverts needed for the project, and the contractor provided all of the remaining materials and the labor for the project. The contractor will owe sales or use tax on all materials he consumes including the bridge components and culverts provided by the highway district, as well as on the materials the contractor purchased for use on the project.~~ ~~(3-31-22)~~

~~c.~~ ~~Example 5: A contractor is hired to install traffic control lights, signage, and roadway illumination for a rebuilt section of roadway. The highway district provides the traffic control signals and the permanent signage for the highway so that all signage will be consistent throughout the highway district. The contractor owes use tax on the value of the traffic signals and signage provided by the highway district as well as on the cost of electrical wiring, signal wiring, and the lights and light poles, etc., purchased and consumed by the contractor.~~ ~~(3-31-22)~~

0~~4~~3. Materials. ~~The sale or use of materials which are extracted and crushed is taxable.~~ Use tax ~~does not~~ doesn't apply to the use of natural materials such as rock, backfill, or other related materials that are secured on site and used without significant change. ~~(3-31-22)~~( )

a. The sale or use of natural materials or rock removed from a construction site and used elsewhere is taxable. ( )

b. The sale or use of crushed rock that is removed from a construction site and used elsewhere is taxable. ( )

0~~5~~4. Rock Crushing. The application of ~~the~~ sales or use tax to rock crushing operations depends upon the circumstances of the case. ~~(3-31-22)~~( )

a. A sale of crushing only is a sale of a taxable processing service. In this circumstance the crusher obtains raw material owned by another, crushes the rock, and stockpiles it for subsequent use either by the owner or a third party. Unless an exemption applies, the crusher charges sales tax ~~on all such sales~~. ~~(3-31-22)~~( )

b. A contractor who crushes rock obtained on a construction site and uses that rock on the same site is performing a nontaxable service. The processing of such rock, backfill, or other related materials isn't taxable.( )

~~b~~**c.** ~~A contractor who applies crushed rock to the highway pursuant to a contract is a person engaged in improving real property.~~ If the contractor applying the crushed rock purchases the rock, the purchase price will be taxable. If the contractor applies rock owned by another party, the contractor will be responsible for a use tax on the value of the rock, unless the other party paid a sales tax upon its acquisition. This is true even if a government agency supplied the rock. ~~If~~ When a recent ~~retail acquisition~~ purchase of the crushed rock exists, ~~the retail~~ that purchase price is ~~to be~~ presumed to be the value of the material. ~~If~~ When there isn't a recent ~~retail sales price does not exist~~ purchase, then the value is ~~to be~~ determined by the current ~~acquisition cost~~ purchase price of like material from the same or a similar source. For the purposes of this section, a ~~retail acquisition~~ purchase made within one (1) year ~~of the time~~ of the performance of the contract is ~~to be~~ presumed to be a recent ~~sales~~ purchase price. ~~(3-31-22)~~( )

~~d~~**e.** A contractor who ~~se contract calls for him to both~~ crushes and appl~~y~~ies rock to a road ~~is also subject to sales or use~~ owes tax on the value of the rock whether the contract is performed for a governmental or private ~~contractee~~ entity. The value is to be determined by the royalty or similar charge for raw materials. If a royalty or similar charge ~~does not~~ doesn't exist, then the value will be determined as the royalty fee or value of like material from a similar source. If the contractor chooses to have the rock crushed by a subcontractor, the measure of the use tax is on the crushed value. ~~(3-31-22)~~( )

~~d~~**e.** A sale of rock crushing services to a retailer who will then resell the rock is an exempt sale. The sale of crushed rock to a consumer is a taxable sale unless an exemption applies. ~~(3-31-22)~~( )

0~~6~~5. Production Exemption. (3-31-22)

a. ~~Since a~~A contractor improving real property is ~~defined as~~ the consumer of the materials incorporated into realty~~, he is not~~ and isn't producing an article for resale. ~~Therefore, t~~The production exemption ~~does not~~ doesn't apply to the ~~use of~~ equipment and supplies used by a contractor~~s~~ to produce crushed rock, asphalt, or concrete ~~which are~~ used by the contractor to complete ~~paving contracts~~ real property improvements. ~~(3-31-22)~~( )

b. A business ~~which is~~ primarily devoted to producing crushed rock, asphalt, or concrete ~~which is~~ ultimately sold at retail ~~will~~ may qualify for the production exemption. See ~~Idaho Administrative Sales Tax Rules~~ Sections 079 and 082. ~~(3-31-22)~~( )

014. CONTRACTORS/RETAILERS ~~(RULE 014)~~.
Sections 63-3609(a), 63-3610, 63-3619, 63-3620, 63-3621, Idaho Code

01. In General. This ~~rule shows how~~ section illustrates the application of Idaho sales and use tax ~~applies~~ to contractors who are also retailers. The general principles stated in ~~Rule~~ Section 012 ~~of these rules~~ also apply to these contractor~~s/retailers and should be reviewed along with this rule~~. ~~(3-31-22)~~( )

~~**02. Contractor/Retailer**. Many contractors are also retailers. For example, plumbers, electricians, carpet layers, cabinet builders, and mechanical contractors can be both contractors and retailers. They are contractors when they install materials in the course of a residential or commercial service call or contract; but when they sell items or materials they don't install; they are retailers and need to collect sales tax from their customers. (3-31-22)~~

0~~7~~2. Sales of Both Tangible Personal Property and Improvements to Real Property. If a contractor ~~includes both~~ makes retail sales of tangible personal property and improvements to real property, the contractor~~/retailer~~ collects sales tax on the retail portion of the contract. ~~Also, t~~The contractor~~/retailer does not pay sales tax to their vendor, they~~ pay~~s~~ sales or use tax on the materials used to perform the real property ~~portion of the contract~~ improvement. ~~(3-31-22)~~( )

~~**a.** Example: A cabinet builder contracts to build and install kitchen cabinets and build a portable, freestanding china hutch. In the case of the cabinets, the cabinet builder is a contractor improving real property and pays tax on the material costs. In the case of the china hutch, the cabinet builder is a retailer and charges his customer sales tax on the sales price of the hutch, including labor. (3-31-22)~~

~~**b.** Example: A cabinet builder is hired by Contractor X to fabricate and deliver cabinets to the job site. Contractor X will do the installation. In this case, the cabinet builder is a retailer and charges sales tax to Contractor X on the full sales price, including labor. (3-31-22)~~

0~~5~~3. Tangible Personal Property vs. Improvements to Real Property. Built-in appliances and related items become fixtures to reality when installed in ~~residential~~ buildings. Such built-in appliances include dishwashers, microwave ovens, stove tops, refrigerators, stove hoods, central vacuum systems, waste disposal units, trash compactors, water softeners, water purification systems, and garage door openers. Some appliances retain the character of tangible personal property such as microwave ovens that are not built-in, such as free-standing stoves, refrigerators, washers, and dryers. ~~Other rules may apply to commercial, industrial, and other non-residential buildings.~~ See ~~Rule~~ Section 067 for application of the~~se rules~~ three-factor test. ~~(3-31-22)~~( )

0~~6~~4. Sales with Agreement to Install. An ~~regular~~ over-the-counter sale of a complete unit with an agreement to install it ~~is not~~ isn't a contract to improve real property if the item ~~does not~~ doesn't become affixed to reality. This applies to sales of free-standing stoves, refrigerators, washing machines, dryers, and other ~~electrical~~ appliances. ~~In this case,~~ The seller collects sales tax ~~is collected~~ from the buyer ~~by the seller~~ on the retail sales price of the item. If the installation charges are properly separated, sales tax is due only on the cost of the unit.
~~(3-31-22)~~( )

0~~3~~5. Record Keeping ~~Procedure~~. A contractor~~/retailer~~ can follow any consistent procedure to account for inventory and job materials purchases. ~~(3-31-22)~~( )

a. ~~Example: If the majority of~~When a contractor~~/retailer's business~~ is primarily performing contracts to improve real property, ~~The~~ that contractor~~/retailer~~ can choose to pay ~~Idaho~~ tax on all purchases ~~and if an item~~. When tangible personal property is sold at retail in Idaho, the contractor collects and remits ~~Idaho~~ sales tax ~~collected~~ and requests a refund for the Idaho sales tax originally paid. See ~~Rule~~ Section 117 ~~of these rules~~ for refund instructions. ~~(3-31-22)~~( )

b. ~~Example: If the majority of the~~When a contractor~~/retailer's business~~ is primarily making retail sales, they ~~contractor/retailer~~ can choose to purchase all inventory without paying tax by giving suppliers a properly completed resale certificate. When tangible personal property is sold at retain in Idaho, ~~T~~the contractor~~/retailer would~~ collects and remits sales tax ~~collected on Idaho retail sales and~~. When the contractor removes materials from nontaxed inventory to improve real property, they pay ~~an~~ Idaho use tax on the value of ~~items taken from inventory and used to improve real property~~ those materials. ~~(3-31-22)~~( )

~~e.~~ ~~Example: A contractor/retailer can opt to use separate accounting procedures for the purchase of resale inventory and job materials. Resale inventory purchases can be made without paying tax by giving suppliers a properly completed resale certificate and pay tax on the purchase of job materials. See Rule 128 of these rules.~~ ~~(3-31-22)~~

0~~4~~6. **Inventory Withdrawals**. When any withdrawal is made from nontaxed inventory, ~~the~~ use tax is due to the state when the material is delivered to the job site, regardless of when it is used in performing a contract. ~~(3-31-22)~~( )

a. When a contractor fabricates tangible personal property, puts it into inventory, and later withdraws it for a job, tax applies to the fully fabricated value. This is true regardless of whether the fabricator installs the property themself or through an agent or subcontractor. ( )

07. **Examples**. Available at Sales and Use Tax Examples. ( )

015. WELL DRILLERS/PUMP INSTALLERS ~~(RULE 015)~~.
Sections ~~63-2410, 63-2423,~~ 63-3609(a), 63-3621, 63-3615(b), ~~63-3622B,~~ 63-3622D, ~~63-3622R,~~ 63-3622W, Idaho Code

01. In General. This rule ~~is meant to explain how~~ illustrates the application of Idaho sales and use tax ~~applies~~ to contractors who drill wells ~~and~~ or install pumps. The general principles stated in ~~Rule~~ Sections 012 and 014 ~~of these rules~~ also apply to ~~well drillers and pump installers and should be reviewed along with this rule~~ these contractors. ~~(3-31-22)~~( )

02. Types. The types of wells covered by this ~~rule~~ section include, but are not limited to: ~~(3-31-22)~~( )

a. Water wells, including those for municipal, domestic, commercial, and industrial purposes, and wells used for agricultural irrigation. (3-31-22)

b. Monitor wells used to check for contamination or to find the water table. (3-31-22)

c. Anode wells used to ground power or gas lines. (3-31-22)

d. Construction wells used for pilings, shoring, and elevator hoists. (3-31-22)

e. Natural gas and oil wells. ( )

f. Injection wells. ( )

03. ~~Contractor Improving Real Property~~Well Drilling. A well driller is a contractor improving real property. ~~In general, the contractor pays sales or use tax on materials and equipment they own and use or over which they exercise right or power while performing a contract.~~ The contractor should not charge sales tax on materials~~,~~ such as casing, ~~pumps,~~ screens, piping, etc., used to ~~complete~~ construct or repair a well. ~~Section 63-3609(a), Idaho Code, states that~~ as these materials are consumed by the well driller. ~~The contractor pays tax even if the owner of the material is exempt from the tax, such as a government agency. Well drillers may be responsible for use tax on owner-supplied materials. See Rule 012 of this rule. Exemptions are discussed in Subsection 015.05 of this rule.~~ ( )

04. Pump Installation. The three-factor test as discussed in Section 067 is used to determine if a pump is taxable as a real property improvement or as tangible personal property. ( )

a. A ~~P~~pump~~s that are~~ installed with a well~~, such as a pump~~ that supplies water to land or a building~~,~~ ~~are~~ is presumed to be a real property improvement~~s~~. ( )

b. A ~~P~~pump~~s~~ that ~~do not~~ doesn't supply water to land or a building~~s~~ and ~~are~~ is used in commercial or industrial applications ~~will generally be considered~~ is presumed to be tangible personal property unless ~~they have~~

~~been~~ it is so integrated into the real estate that ~~they would be considered~~ it is a permanent fixture. ~~(3-31-22)~~( )

~~**a.** Example: A well driller contracts to drill a water well and install a pump for a homeowner. The contractor bills the homeowner separately for materials and labor as well as the drill bits used. The contractor should pay sales or use tax on his purchase of the materials and drill bits. The contractor should not charge sales tax to the customer since this is a contract to improve real property.~~ ~~(3-31-22)~~

~~**b.** Example: A well driller contracts to drill a well for an Idaho city. The contractor pays sales or use tax on the materials and pumps used to complete the well, even though the eventual owner of these items is a governmental entity. See Rule 094 of these rules.~~ ~~(3-31-22)~~

04~~5~~. **Exemptions**. In some cases, exemptions may apply to materials installed by well drillers and pump installers as provided in Idaho Code. ~~Note: These e~~Exemptions apply only to project materials and not to construction equipment and supplies, such as drilling rigs and drill bits. ~~If a well driller or pump installer makes exempt purchases, he must complete an exemption certificate for the vendor's records.~~ ~~(3-31-22)~~( )

~~**a.** Materials installed in a well which will be used primarily for agricultural irrigation are exempt under Section 63-3622W, Idaho Code. The exemption applies even if the materials become part of the real property. Agricultural irrigation includes supplying water to crops, livestock, and fish which are produced for resale.~~ ~~(3-31-22)~~

~~**b.** Pumps and other equipment used directly in manufacturing or processing are exempt under Section 63-3622D, Idaho Code. Generally, such pumps retain the characteristics of personal property. This exemption applies only to tangible personal property. It does not apply to materials which will become part of real property. Examples include: pumps used directly in food processing; booster pumps and chlorine pumps used directly in manufacturing; and dairy waste pumps.~~ ~~(3-31-22)~~

~~**05. Motor Vehicles**. In general, drilling rigs and licensed motor vehicles are taxable when purchased by a well driller or pump installer. However, if a vehicle weighs more than twenty-six thousand (26,000) pounds, is used more than ten percent (10%) of the time outside of Idaho, and is registered under the International Registration Plan or similar pro rata plan, its purchase is exempt. See Rule 101 of these rules. This exemption does not apply to repair parts for motor vehicles, or to drilling rigs purchased separately from a motor vehicle.~~ ~~(3-31-22)~~

~~**06. Fuel**. Motor fuel taxes do not apply, or a refund may be obtained, if the fuel is used to run drilling rigs or other off-road equipment. Fuel purchased for such off-highway use is taxable. See Sections 63-2410 and 63-2423, Idaho Code, and related IDAPA 35.01.05, "Idaho Motor Fuels Tax Rules."~~ ~~(3-31-22)~~

06. **Examples**. Available at Sales and Use Tax Examples. ( )

016. ~~RETAIL SALE OF ASPHALT, CONCRETE, AND CONCRETE PRODUCTS (RULE 016).~~(RESERVED)

~~Sections 63-3609(a), 63-3610, 63-3622D, 63-3622W, Idaho Code~~

~~**01. In General**. Asphalt, concrete and concrete products are building materials. The sale of such products to construct, alter, repair, or improve real estate is taxable. Separately stated charges for delivery by the vendor and vendor standby time are not taxable.~~ ~~(3-31-22)~~

~~**02. Agricultural Irrigation**. Materials purchased for agricultural irrigation are exempt from sales tax whether purchased by the farmer, contractor, or subcontractor. This exemption applies even if the material is permanently affixed to real estate, such as concrete used to line ditches or ponds. See Rule 096 of these rules. The buyer must provide the seller with an exemption certificate. See Rule 128 of these rules.~~ ~~(3-31-22)~~

~~**03. Production Exemption**. The retailer who produces and sells asphalt or concrete may qualify to claim the production exemption on equipment and supplies used directly to produce the concrete or asphalt for resale. See Rule 079 of these rules. However, trucks used by a ready-mix operator do not qualify for the production exemption because they are used for transportation. Although they may incidentally contribute to the manufacture of the final article, purchases of the truck, trailer, and the truck-mounted concrete mixer, which becomes a part of the motor vehicle, are not exempt from the tax.~~ ~~(3-31-22)~~

017. DINING ON AIRLINES, BUSES, AND RAILWAY DINING CARS TRANSPORTATION (RULE 017).
Sections 63-3612, 63-3613, 63-3615, 63-3621, Idaho Code

01. Sale of Meals. The sale of meals or drinks that are not included in the price of the ticket on commercial aircraft, railway dining cars or buses operating in Idaho is a retail sale. An airline, bus company or passenger train is operating in Idaho if a trip starts or ends in Idaho and part of the trip can be allocated to Idaho. (3-31-22)

02. Taxable Sales. The gross receipts of such a sale are taxable when the meals, beverages or other tangible personal property are ordered or served within the boundaries of Idaho. It does not doesn't matter whether the meals and other property are consumed in Idaho. (3-31-22)( )

03. Formula for Taxable Sales. A formula may be used to determine the taxable sales of meals and beverages on the trip if accurate records of actual sales are not kept. ( )

a. The fFormula is: first, find. Calculate the percentage of trip miles in Idaho in relation to the total mileage of the trip; and then, mMultiply this percentage by the total sales of meals or and beverages served on the entire trip. (3-31-22)( )

04. Meals, Snacks, Beverages or Other Tangible Personal Property. When the price of an airline, bus, or railway ticket includes meals, snacks, beverages, or other tangible personal property, the cost of these goods is subject to use tax. An airline, bus company, or railway company that purchases these goods in Idaho, pays Idaho sales tax to the vendor, regardless of where the goods will be distributed to passengers. If these goods are purchased in another state and no sales or use tax has been paid to that state, the cost of the goods distributed to passengers on trips that start or end in Idaho is subject to use tax. In the absence of accurate records, the provider may determine taxable use based on trip miles determined by the formula in Subsection 017.03 of this rule. (3-31-22)( )

018. RETAILER DEFINED (RULE 018).(RESERVED)
Sections 63-3610, 63-3611, 63-3614, 63-3620, 63-3620F, 63-1804, Idaho Code

01. Retailer. The term retailer is defined in Section 63-3610, Idaho Code. A retailer includes a seller as defined in Section 63-3614, Idaho Code as every person making retail sales to a buyer or consumer, whether as agent, broker, or principal. (3-31-22)

02. Retailer Engaged in Business in this State. A retailer engaged in business in this state is anyone required to collect and remit Idaho sales and use tax pursuant to Section 63-3611, Idaho Code. (3-31-22)

03. Retailers Selling Incidental Tangible Personal Property. A person may be a retailer within the meaning of the act although the sale of tangible personal property is incidental to their general business. For example, a plumbing contractor may sell some plumbing supplies as a sideline and thereby become a retailer within the meaning of this act. (3-31-22)

04. Farmers. Farmers who ordinarily sell their grain, livestock and other horticultural products for resale or processing are not taxable. However, when they sell to ultimate consumers or users, they must obtain a seller's permit and report sales tax on their taxable sales. (3-31-22)

05. An Agent as a Retailer. Where there is a written agreement between a principal and their agent, dealer or other third party, and such agreement stipulates that the agent, dealer or other third party will be responsible for collection, reporting and payment of sales tax generated by sales, the Tax Commission will treat the position of the agent, dealer or third party as that of a retailer and impose on them the burden of collecting, accounting for, and paying the sales tax to the State Tax Commission. (3-31-22)

a. However, if for example, a milk route salesman, without such an agreement, makes regular deliveries, collects for the products, and sales tax is included in the total proceeds collected and remitted to the principal for proper crediting, accounting, discounts, etc., then it is the responsibility of the principal to relay the sales

~~tax with proper reporting forms as prescribed by law.~~ ~~(3-31-22)~~

~~**b.** In some instances, such as the above, and the example of a newspaper delivery boy, the sales are actually made on behalf of the dairy and the newspaper company respectively. In the absence of any such written agreement, the Tax Commission will look to the principal as being responsible for the reporting and payment of the sales tax.~~ ~~(3-31-22)~~

019. SALES BY COUNTY SHERIFFS ~~(RULE 019)~~.
Sections 63-3612, 63-3620, Idaho Code

~~01.~~ ~~Sales~~. A county sheriff who sells tangible personal property~~, either as a result of a court order or pursuant to any summary notice and sale foreclosure procedure,~~ will collect and remit sales tax ~~in the same manner as a retailer engaged in business in this state~~. This includes sales pursuant to a court order or a summary notice and sale foreclosure procedure. ~~(3-31-22)~~( )

~~02.~~ ~~Requirement to Register~~. ~~There is no requirement for the various sheriff's offices to register with the Commission. Each sheriff's office in the state of Idaho is assigned a seller's permit number and must file Form 850 returns quarterly.~~ ~~(3-31-22)~~

020. AUCTIONEER, AGENT, BROKER, DISTRIBUTOR AND FACTORS ~~(RULE 020)~~.
Section 63-3610, Idaho Code
Every auctioneer, agent, broker, distributor and factor acting for a principal, or entrusted with any bill of lading, custom house permit for delivery or any tangible personal property ~~or entrusted with possession of any tangible personal property~~ for the purpose of sale, collects and remits sales tax on those sales. This is true even if the principal or owner of the property would not have had a requirement to do so. ~~(3-31-22)~~( )

021. MULTI-LEVEL MARKETING FIRMS ~~(RULE 021)~~.
Sections 63-3610, 63-3612, Idaho Code

01. Multi-Level Marketing Firm. A multi-level marketing firm is an organization that can convey to a person the right to sell a product and the right to convey those rights to another person. (3-31-22)

~~02.~~ ~~Agents~~. ~~The Idaho Sales Tax Act provides the Commission with the authority to view salesmen, representatives, peddlers, or canvassers as agents of the dealers or distributors under whom they operate or from whom they obtain the tangible personal property sold by them, even if such persons are independent contractors. The Commission may require the dealers or distributors to collect and remit the sales tax on behalf of such agents.~~ ~~(3-31-22)~~

0~~3~~2. Requirement of Multi-Level Marketing Firms to Collect Tax. ~~The Commission may, upon the request of the multi-level marketing firm or when it finds evidence of material failure to comply with the Idaho Sales Tax Act or these rules and when the Commission determines that it is necessary for the efficient administration of such act, require m~~Multi-level marketing firms ~~to~~ collect the sales and use tax on all ~~taxable~~ tangible personal property sold by the multi-level marketing firm through such agents, whether or not the agents are independent contractors. ~~(3-31-22)~~( )

~~04.~~ ~~Notification~~. ~~The Commission, upon determination that a multi-level marketing firm is required to collect the tax on taxable sales through its agents, will provide to the multi-level marketing firm, by certified mail, a notification of the sales and use tax remittance requirements imposed by the Commission.~~ ~~(3-31-22)~~

~~a.~~ ~~Beginning with the first reporting period after receipt of the notice, the multi-level marketing firm is responsible for collecting and remitting tax on all sales made by its agents.~~ ~~(3-31-22)~~

~~b.~~ ~~A taxpayer desiring to seek a redetermination of the notice must file a written protest with the Commission within the time limit provided in Section 63-3631, Idaho Code and under the procedures provided by IDAPA 35.02.01.320 - 328, "Tax Administration and Enforcement Administrative Rules."~~ ~~(3-31-22)~~

022. DROP SHIPMENTS (RULE 022).

Sections 63-3615A, 63-3619, 63-3620, 63-3621, 63-3622, Idaho Code

01. In General. ~~Drop shipments refer to shipments made by a seller to someone other than its buyer. For example, a Manufacturer produces Product X. The Retailer is a distributor of Product X. The Customer, which does business only in Idaho, is the ultimate buyer and consumer of Product X. The Customer places a purchase order with the Retailer. The Retailer, having no inventory in stock, places a purchase order with the Manufacturer. The Retailer directs the Manufacturer to ship the product directly to the Customer in Idaho. The Manufacturer, however, bills the Retailer for the product and receives payment from the Retailer. The Retailer bills and receives payment from the Customer. The nature and use of Product X is not within any of the specified exemptions contained in the Idaho Sales Tax Act. The Manufacturer may or may not be required to have an Idaho seller's permit. If the Manufacturer sells directly to the Customer without the presence of a retailer, the Manufacturer is acting as a retailer and the transaction is not a drop shipment.~~Drop shipping is an order fulfillment method where a business can't have the products it sells in stock. The seller bills the buyer and has a third party (generally a manufacturer or distributor) fulfill the order by shipping the goods to the buyer. ~~(3-31-22)~~( )

02. Parties to the Contract. ~~The Idaho sales tax is imposed upon sales transactions. Since there is no sales transaction between the Manufacturer and the Customer, the Manufacturer will not be required to collect and remit sales tax from the Customer.~~There are two (2) sales contracts in a drop shipment. One (1) is between the seller and the buyer. The other is between the seller and the third-party shipper. ~~(3-31-22)~~( )

a. The seller collects Idaho sales tax from the buyer, if mandated. Since there is no sales transaction between the third-party shipper and the buyer, the shipper isn't mandated to collect sales tax. ( )

b. If the third-party shipper is mandated to have an Idaho Seller's Permit, the shipper documents the exempt sale between the shipper and the seller with a properly executed resale/exemption certificate. ( )

~~**03. Sales Tax Responsibilities of the Permitted Manufacturer**. If the Manufacturer is required to have a valid Idaho seller's permit, it has sales tax responsibilities as to the sales transaction between itself and the Retailer. (3-31-22)~~

~~**a.** If the Retailer has an Idaho seller's permit, it will be necessary for the Retailer to provide the Manufacturer with a resale certificate evidencing its intentions to resell Product X. If the Retailer does not provide the resale certificate, then the Manufacturer charges Idaho sales tax on the sale of tangible personal property sold to the Retailer and delivered in Idaho. If the Retailer provides a resale certificate, the Retailer then charges the Customer Idaho sales tax and remits the tax to the Commission together with a proper return. (3-31-22)~~

~~**b.** If the Retailer is not required to have an Idaho seller's permit, a resale certificate from the Retailer to the Manufacturer is unnecessary. If the Retailer has no nexus with the state of Idaho, it can accrue no sales tax liability and the sale between the Manufacturer and the Retailer is not subject to the jurisdiction of the Commission. The Manufacturer must obtain evidence of this fact in the form of a letter from the Retailer stating that they have no nexus in Idaho or by any other clear and convincing evidence. The Customer's use or consumption of Product X within Idaho will cause it to accrue a use tax liability. The Customer will be required to file a use tax return and report and remit the use tax on the purchase of Product X. (3-31-22)~~

~~**04. Sales Tax Responsibilities of the Unpermitted Manufacturer**. If the Manufacturer does not have and is not required to have a valid Idaho seller's permit, it has no sales tax responsibilities as to the sales transaction between itself and the Retailer. (3-31-22)~~

~~**a.** If the Retailer has an Idaho seller's permit, the Retailer charges the Customer Idaho sales tax and remits the tax to the Commission together with a proper return. (3-31-22)~~

~~**b.** If the Retailer is not required to have an Idaho seller's permit, the Retailer is under no responsibility to collect Idaho sales tax from the Customer. The Customer's use or consumption of Product X within Idaho will cause it to accrue a use tax liability. It will be required to file a use tax return and report and remit the use tax on the purchase of Product X. (3-31-22)~~

c. The matrix below outlines the sales tax responsibilities of the ~~Manufacturer~~ shipper:

	~~Retailer~~Seller (Permitted)	~~Retailer~~Seller (Not Permitted ~~Required~~)	Customer
~~Manufacturer~~Shipper (Permitted)	Obtain ~~ST 101~~Properly executed Resale/ Exemption Certificate or Collect Tax	Obtain Letter of No Nexus or Collect Tax	~~Do Not~~Don't Collect Tax from Customer / Use Tax Owed by Customer
~~Manufacturer~~Shipper (Not Permitted ~~Required~~)	~~Do Not~~Don't Collect Tax	~~Do Not~~Don't Collect Tax	~~Do Not~~Don't Collect Tax from Customer / Use Tax Owed by Customer

~~(3-31-22)~~( )

~~**05. Sales Tax Responsibilities of the Retailer**. If the Retailer is required to have a seller's permit, it is responsible for collecting sales tax from the Customer. If the Retailer is not required to have a seller's permit, it is not responsible for collecting sales tax form the Customer. The Customer is responsible to pay use tax to the State of Idaho if purchased from an unpermitted retailer.~~ ~~(3-31-22)~~

~~a~~**d.** The matrix below outlines the sales tax responsibilities of the ~~Retailer~~ seller:

	~~Manufacturer~~Shipper (Permitted)	~~Manufacturer~~Shipper (Not Permitted ~~Required~~)	Customer
~~Retailer~~Seller (Permitted)	Provide ~~Valid~~Properly executed Resale/ Exemption Certificate	None	Collect Tax from Customer
~~Retailer~~Seller (Not Permitted ~~Required~~)	Give Letter of No Nexus	None	~~Do Not~~Don't Collect Tax from Customer / Use Tax Owed by Customer

~~(3-31-22)~~( )

~~**06. Resale Certificate**. If either the Manufacturer or the Retailer is engaged in interstate commerce, the resale certificate which the Retailer provides to the Manufacturer may be in the form prescribed for uniform exemption certificates by the Multistate Tax Commission if the rules set forth in Rule 128 of these rules are met.~~ ~~(3-31-22)~~

03. Examples. Available at Sales and Use Tax Examples. ( )

023. (RESERVED)

024. RENTALS OR LEASES OF TANGIBLE PERSONAL PROPERTY (RULE 024).
Sections 63-3609, 63-3612, 63-3613, 63-3616, 63-3622UU, Idaho Code

~~**01. In General**. The lease or rental of tangible personal property, including licensed motor vehicles, is a sale.~~ ~~(3-31-22)~~

0~~2~~**1. Bare Equipment Rental**. A bare equipment rental~~, that~~ is~~,~~ a rental of equipment without an operator~~,~~ and is a taxable sale. The owner of the equipment is a retailer ~~with a~~ and is require~~ment~~d to collect and remit Idaho sales tax on each rental payment ~~and remit the tax to the State Tax Commission just like any other retailer. The tax applies whether the equipment is rented by the hour, day, week, month, or on a mileage, or any other basis~~. The equipment owner who primarily rents bare equipment may buy the equipment and repair parts without paying tax to the vendor by giving the vendor a properly executed resale certificate. ~~See Rule 128 of these rules.~~ If the equipment

owner uses the rental equipment for ~~his~~ their own benefit or in ~~his~~ their own business operations, the equipment owner pays use tax based on a fair market rental value for the period during which they used ~~his~~ their own equipment. ~~(3-31-22)~~( )

032. Fully Operated Equipment Rentals. (3-31-22)

~~**a.** A fully operated equipment rental, equipment with operator, is a service rather than a retail sale of tangible personal property. No sales tax is due on a fully operated equipment rental. (3-31-22)~~

~~**b**~~**a.** A fully operated equipment rental is an agreement in which the owner or supplier of the equipment or property supplies the equipment or property along with an operator, and the property supplied is of no value to the customer without the operator. A fully operated equipment rental is a nontaxable service. ~~(3-31-22)~~( )

~~**c**~~**b.** The owner or supplier of the equipment or property used in a fully operated equipment rental is the consumer of the equipment or property~~,~~ and ~~is~~ owes tax~~able~~ when they buy~~s~~ or use~~s~~ ~~the~~that equipment or property in Idaho. The owner who rents fully operated equipment can't buy repair parts tax exempt. Special rules apply to transient equipment used for short periods in Idaho. See ~~Rule~~ Subsection 073.03 ~~of these rules~~. ~~(3-31-22)~~( )

~~**d**~~**c.** If the equipment or property has value to the customer without an operator, then the lease or rental of the equipment or property is a distinct transaction. It is taxable and its price ~~must~~ will be stated separately from the price of the service provided by the operator. ~~(3-31-22)~~( )

~~**e.** Example: A crane rental company provides a mobile crane to a contractor, along with an operator. The contractor may not use the crane without the operator, so the leasing company is not required to charge sales tax on the lease of the crane. (3-31-22)~~

~~**f.** Example: Pick-Up Industries provides a three (3) cubic yard trash container to a customer. Pick-Up also provides trash hauling service to empty the container. Since the container is used to store trash between collections, its transfer to a customer is a taxable lease. (3-31-22)~~

043. Mixed Use of Rental Equipment. (3-31-22)

a. If the equipment owner primarily rents bare equipment but sometimes supplies equipment with an operator, the equipment owner is the consumer of the equipment while it is used by the supplied operator to perform a service contract. Accordingly, the equipment owner ~~must~~ will pay use tax on the fair market rental value of the equipment for that period of time unless they ~~paid~~pay tax when they bought the equipment. ~~(3-31-22)~~( )

b. If the equipment owner primarily rents fully operated equipment but sometimes rents bare equipment, he charges sales tax on the rental of the bare equipment even though tax was paid on the original purchase of the property. In this case, the owner purchased the equipment for a purpose other than the resale or re-rental of that property in the regular course of business. (3-31-22)

054. Operator ~~Required~~ Obligated to Be Paid by Customer. In some cases, an equipment owner supplies equipment along with an operator but a contract or a state or federal law requires the customer to pay the operator. If all other indications of an employee-employer relationship, such as the right to hire and fire, immediate direction and control, etc., remain with the equipment owner, the owner is viewed as supplying a service and no sales tax applies to the service fee. However, the fact that the transaction is a fully operated equipment rental needs to be clearly stated on the face of the invoice or other billing document. The Commission may~~, whenever it deems appropriate,~~ examine the facts on a case-by-case basis to determine if a true employer-employee relationship exists between the equipment owner and the operator. ~~(3-31-22)~~( )

~~**06. Maintenance of Rental Equipment**. If the owner who primarily rents bare equipment is responsible for the maintenance of the equipment, he may buy the necessary repair parts and equipment tax exempt by providing his vendor with a resale certificate. The owner who rents fully operated equipment may not buy the equipment or repair parts tax exempt. (3-31-22)~~

075. Rentals to Exempt Entities. The rental or lease of equipment invoiced directly to an entity exempt

from sales tax~~, such as the state of Idaho or one (1) of its political subdivisions, is not~~ isn't taxable. However, if the rental or lease is to an individual or organization performing a contract for, or working for an exempt entity, the rental is taxable. ~~(3-31-22)~~( )

~~**08. Exempt Equipment Rentals.** Equipment which would have been exempt from tax if purchased is also tax exempt if leased or rented. To claim this exemption, the renter provides the owner with a properly completed exemption certificate. See Rule 128 of these rules. (3-31-22)~~

0~~9~~6. **Rental Payments Applied to Future Sales**. Rentals to be applied toward a future sale or purchase are taxable. (3-31-22)

~~**10. Personal Property Tax.** A lessor may require reimbursement from the lessee for the personal property tax the lessor pays on leased equipment. A charge for personal property tax will be exempt from sales tax if the lease is for a term of one year or longer; if the property tax is billed as a separate line item; and if the charge is no more than the property tax actually paid by the lessor. (3-31-22)~~

~~11~~07. **Out-of-State Rental/Lease**. Rental or lease payments on bare equipment used outside Idaho ~~are not~~ aren't subject to Idaho sales tax. ~~Rental or lease payments on equipment used in Idaho are taxable.~~ If the equipment is delivered in Idaho, even though it will be used outside the state, then the rental or lease payment for the first ~~month, or other~~ rental period~~,~~ is subject to Idaho tax. ~~(3-31-22)~~( )

~~12~~08. **Lease-Purchase and Lease with Option to Purchase**. (3-31-22)

a. Lease-purchase. An agreement~~s include transfers which are called leases by the parties but are really installment, conditional, or similar sales. W~~where the ownership of the leased property passes to the ~~transferee~~ buyer at the end of the stated terms of the ~~lease~~ contract with no additional consideration from the ~~transferee~~ buyer, or where the additional consideration ~~does not~~ doesn't represent the fair market value of the property~~,~~. ~~the transaction~~ A lease-purchase is a retail sale and tax is collected on the entire sales price ~~is collected~~ on the date the property is delivered. ~~(3-31-22)~~( )

b. Lease with an option to purchase. An agreement~~s include transfers in which the personal property owner, lessor, transfers possession, dominion, control or use of the property to another for consideration~~ where the ownership of the leased property remains with the seller over ~~a~~ stated terms of the contract and the ~~owner, lessor,~~ seller keeps the leased property ~~at the end of the term~~ unless the ~~lessee~~ buyer exercises an option to buy ~~the property~~ it at fair market value. The ~~owner/lessor~~ seller will collect~~s~~ sales tax ~~from the lessee at the time each lease payment is charged~~ for each lease payment and the buyout~~.~~ ~~I~~if the ~~lessee~~ buyer exercises the option ~~to buy, the lessor/owner collects sales tax from the lessee/buyer on the full remaining purchase price when the option is exercised~~ at the end of the contract. ~~(3-31-22)~~( )

~~**13. Cross-References.** (3-31-22)~~

~~**a.** See Rule 025 of these rules on real property rental. (3-31-22)~~

~~**b.** See Rule 037 of these rules on aircraft and flying services. (3-31-22)~~

~~**c.** See Rule 038 of these rules on flying clubs. (3-31-22)~~

~~**d.** See Rule 044 of these rules on trade-in for rental or lease property. (3-31-22)~~

~~**e.** See Rule 049 of these rules on warranties and service agreements. (3-31-22)~~

~~**f.** See Rule 073 of these rules on transient equipment. (3-31-22)~~

~~**g.** See Rule 106 of these rules on motor vehicles. (3-31-22)~~

025. ~~THE SALE, LEASE, OR RENTAL OF REAL PROPERTY (RULE 025).~~(RESERVED)
~~Section 63-3612, Idaho Code~~

~~**01. In General**. The sale, lease, or rental of real property, including office space, living space, lockers, boat docks, billboards, parking spaces, spaces for booths at fairs, and real property storage spaces is not taxable.~~ ~~(3-31-22)~~

~~**02. Hotel, Motel, and Campground Accommodations**. The charge for providing hotel, motel, and campground accommodations is taxable as provided by Section 63-3612, Idaho Code. See Rule 028 of these rules.~~ ~~(3-31-22)~~

026. (RESERVED)

027. COMPUTER EQUIPMENT, SOFTWARE, AND DATA SERVICES ~~(RULE 027)~~.
Sections 63-3613, 63-3616, Idaho Code

01. Definitions. For purposes of this ~~rule~~ section, the following terms will have the following meanings: ~~(3-31-22)~~( )

~~**a. Canned Software.** Canned software is prewritten software which is offered for sale, lease, or use to customers on an off-the-shelf basis with little or no modification at the time of the transaction beyond specifying the parameters needed to make the program run. Evidence of canned software includes the selling, licensing, or leasing of identical software more than once. Software may qualify as custom software for the original buyer, licensee, or lessee, but become canned software when sold to others. Canned software includes program modules which are prewritten and later used as part of a larger computer program.~~ ~~(3-31-22)~~

~~**b**~~**a.** Computer. A ~~computer is a~~ programmable machine or device having information processing capabilities ~~and~~ that includes word, data, and math processing equipment, testing equipment, programmable microprocessors, and any other integrated circuit embedded in manufactured machinery or equipment. ~~(3-31-22)~~( )

~~**c**~~**b.** Computer Hardware. ~~Computer hardware is the~~ A physical computer assembly and all peripherals, whether attached physically or remotely by any type of network, and includes all equipment, parts and, supplies. ~~(3-31-22)~~( )

~~**d**~~**c.** Computer Program. A ~~computer program, or simply a program, is a~~ sequence of instructions written for the purpose of performing a specific operation ~~in~~ on a computer. ~~(3-31-22)~~( )

~~**e. Computer Software.** Computer software, or simply software, is defined as any of the following:~~ ~~(3-31-22)~~

~~i. A computer program;~~ ~~(3-31-22)~~

~~ii. Any part of a computer program;~~ ~~(3-31-22)~~

~~iii. Any sequence of instructions that operates automatic data processing equipment; or~~ ~~(3-31-22)~~

~~iv. Information stored in an electronic medium.~~ ~~(3-31-22)~~

~~**f. Custom Software.** Custom software is software designed and written by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's needs.~~ ~~(3-31-22)~~

~~**g. Digital Product.** See definition for "Information Stored in an Electronic Medium" in Subsection 027.01.h.~~ ~~(3-31-22)~~

~~**h. Information Stored in an Electronic Medium.** Any electronic data file other than a computer program which can be contained on and accessed from storage media. The term includes audio and video files and any documents stored in an electronic format. For purposes of this rule, the term is interchangeable with "digital~~

~~product."~~ ~~(3-31-22)~~

~~i.~~ ~~Load-and-Leave Method. A method of software delivery in which the vendor or an agent of the vendor loads software onto the user's storage media at the user's location but does not transfer storage media containing the software to the user.~~ ~~(3-31-22)~~

~~j.~~ ~~Remotely Accessed Computer Software. Computer software that a user accesses over the internet, over private or public networks, or through wireless media, and the user only has the right to use or access the software by means of a license, lease, subscription, service, or other agreement.~~ ~~(3-31-22)~~

~~k~~d. Storage Media. Storage media include, but are not limited to, hard disks, optical media discs, diskettes, magnetic tape data storage, solid state drives, and other semiconductor memory chips used for nonvolatile storage of information readable by a computer. (3-31-22)

e. Cloud Storage. A method of storing digital data on remote servers, accessible via the internet, rather than on a physical device or local network, managed by a third-party provider. ( )

~~02. **Computer Hardware**. The sale or lease of computer hardware is a sale at retail. Sales tax is imposed based on the total purchase price, lease, or rental charges. See Rule 024 of these rules.~~ ~~(3-31-22)~~

0~~3~~2. **Canned Software**. ~~When canned software is sold and delivered on storage media to the user and the storage media remains in the possession of the user, it is tangible personal property and the sale is taxable. If the storage media is sold along with other computer hardware, any canned software loaded on the storage media is tangible personal property the sale of which is taxable. If canned software is sold and delivered electronically or by the load and leave method, it is not tangible personal property and the sale is not taxable. If canned software~~ When a sale of canned software is taxable, tax applies to the entire amount charged to the customer. If the consideration consists of license fees, royalty fees, right to use fees or program design fees, whether for a period of minimum use or for extended periods, all fees are included in the taxable price. The taxability of canned software depends on how it is delivered. ( )

a. If it is sold using a physical package but the package ~~does not~~ doesn't contain the canned software on storage media, it ~~is not~~ isn't tangible personal property and the sale ~~is not~~ isn't taxable. ~~For example, if a~~ A printed key code ~~is~~ sold in a box that allows the user to download canned software and activate the canned software using the key code~~, the sale is not~~ isn't taxable. ~~(3-31-22)~~( )

~~a. If canned software is loaded on a user's computer but has minimal or no functionality without connecting to the provider's servers over the internet, the sale of that canned software may still be taxable based upon the delivery method of the canned software as outlined in Subsection 027.03 of this rule.~~ ~~(3-31-22)~~

~~b. Special rules apply to digital music, digital books, digital videos, and digital games. See Subsections 027.06 and 027.07 of this rule.~~ ~~(3-31-22)~~

~~c. When a sale of canned software is taxable, tax applies to the entire amount charged to the customer for canned software. If the consideration consists of license fees, royalty fees, right to use fees or program design fees, whether for a period of minimum use or for extended periods, all fees are included in the taxable price.~~ ~~(3-31-22)~~

~~04. **Remotely Accessed Computer Software**. Remotely accessed computer software is not tangible personal property and charges to use or access such software are not taxable.~~ ~~(3-31-22)~~

0~~5~~3. **Maintenance Contracts**. Maintenance contracts sold in connection with the sale or lease of taxable canned software generally provide that the buyer will be entitled to receive periodic program enhancements and error correction, often referred to as upgrades, either on storage media or through remote telecommunications. The maintenance contract may also provide that the buyer will be entitled to telephone or on-site support services. ~~(3-31-22)~~( )

a. ~~If the~~Mandatory maintenance contract. If the maintenance contract is ~~required as~~ a condition of the

sale, lease, or rental of taxable canned software, the ~~gross~~ sales price is taxable ~~if the software to which the contract applies is taxable~~. Tax applies whether or not the charge for the maintenance contract is separately stated from the charge for software. In determining whether an agreement is optional or mandatory, the terms of the contract will be controlling. ~~(3-31-22)~~( )

b. Optional maintenance contract. If the maintenance contract is optional to the buyer of taxable canned software: ~~(3-31-22)~~( )

i. Then only the portion of the contract fee representing upgrades is taxable if the fee for any maintenance agreement support services is separately stated and the upgrades are delivered on storage media; (3-31-22)

ii. If the fee for any maintenance agreement support services ~~is not~~ isn't separately stated from the fee for upgrades and the upgrades are delivered on storage media, then fifty percent (50%) of the entire charge for the maintenance contract is taxable; ~~(3-31-22)~~( )

iii. If the maintenance contract only provides upgrades delivered on storage media, and no maintenance agreement support services, then the entire sales price of the contract is taxable; (3-31-22)

iv. If the maintenance contract only provides support services, and the customer ~~is not~~ isn't entitled to or ~~does not~~ doesn't receive any canned computer software upgrades or enhancements, then the sale of the contract ~~is not~~ isn't taxable. ~~(3-31-22)~~( )

c. If an optional software maintenance contract provides for software updates to be delivered electronically but also allows a customer to receive software updates on storage media, no portion of the contract is taxable unless the customer receives software updates on storage media. (3-31-22)

~~**06. Digital Products**. Digital music, digital books, digital videos, and digital games are tangible personal property regardless of the delivery or access method but only if the buyer has a permanent right to use the digital music, digital books, digital videos, or digital games. Where the buyer has a permanent right to use these digital products, the sale is taxable. Leases or rentals of these digital products are not taxable. (3-31-22)~~

~~**a.** Other than digital music, digital books, digital videos, or digital games, information stored in an electronic medium is tangible personal property only if it is transferred to the user on storage media that is retained by the user. (3-31-22)~~

~~**b.** If a digital game requires the internet for some or all of its functionality, the sale of that digital game is taxable if the buyer has a permanent right to use the digital game. If a user pays a periodic subscription charge to play a digital game, the periodic subscription charge is not taxable. If a user pays a periodic subscription charge for a gaming service that enables certain functionality such as multiplayer capability in one or more digital games, the periodic charge is not taxable. (3-31-22)~~

~~**07. Digital Subscriptions**. Digital subscriptions consist of an agreement with a seller that grants a user the right to obtain or access digital products in a fixed quantity or for a fixed period of time. Digital subscriptions are not taxable. (3-31-22)~~

0~~8~~4. **Reports Compiled by a Computer**. The sale of statistical reports, graphs, diagrams, ~~microfilm, microfiche, photorecordings,~~ or any other information produced or compiled by a computer and sold or reproduced for sale in substantially the same form as it is produced is a sale of tangible personal property and is taxable if the final product is printed or delivered in an electronic format on storage media. If a report is compiled from information furnished by the same person to whom the finished report is sold, the report will be taxable unless the person selling the report performs some sort of service regarding the data or restates the data in substantially different form than that from which it was originally presented or delivers the report to the buyer electronically. ~~(3-31-22)~~( )

~~**a.** Example: An accountant uses a computer to prepare financial statements from a client's automated accounting records. No tax will apply since what is sought is the accountant's expertise and knowledge of generally accepted accounting principles. (3-31-22)~~

~~**b.** Example: A company sells mailing lists which are transferred to the user on storage media that remains in the possession of the user. The seller compiles all the mailing lists from a single data base. Since the same data base is used for all such mailing lists it is not custom software. Therefore, the sale is taxable.~~ ~~(3-31-22)~~

~~**c.** Example: An auto parts retailer hires a data processing firm to optically scan and record its parts book on a computer disk. No analysis or other service is performed regarding the data. Essentially, this is the same as making a copy of the parts books and the sale is, therefore, taxable.~~ ~~(3-31-22)~~

~~**d**~~**a.** When additional copies of records, reports, manuals, tabulations, etc., are provided, tax applies to the charges ~~made~~ for ~~the additional~~ those copies. ~~Additional copies are all copies in excess of those produced simultaneously with the production of the original and on the same printer, where the copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means.~~ ~~(3-31-22)~~( )

~~**c.** Charges for copies produced by means of photocopying, multilithing, or by other means are taxable.~~ ~~(3-31-22)~~

0~~9~~**5. ~~Online~~Cloud or Remote Data Storage**. Charges to store data on storage media owned and controlled by another party is a nontaxable service. ~~(3-31-22)~~( )

~~**1**~~**06. Training Services**. Separately stated charges for training services are not taxable, unless they are incidental services agreed to be rendered as a part of the sale of tangible personal property ~~as provided by Rule 011 of these rules~~. ~~(3-31-22)~~( )

a. When separate charges are made for printed training materials~~,~~ such as books~~,~~ or manuals~~, or canned software,~~ sales tax applies. ~~(3-31-22)~~( )

b. When training materials are provided at no cost to the buyer in conjunction with the sale of tangible personal property, the training materials are ~~considered to be~~ included in the sales price of the tangible personal property. ~~(3-31-22)~~( )

c. When no tangible personal property~~, computer hardware or canned software,~~ is sold and training materials are provided at no charge to the customer, the provider of the training is the consumer of the training materials and ~~is required to~~ pays sales ~~tax~~ or ~~accrue and remit~~ use tax on the value of the materials. ~~(3-31-22)~~( )

~~**11**~~**07. Custom Software**. ~~The transfer of title, possession, or use for a consideration of custom software is not taxable. Custom software is specified, designed, and created by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's needs. The term includes those services that are represented by separately stated and identified charges for modification to existing canned software which are made to the special order of the customer, even though the sales, lease, or license of the existing program remains taxable. Examples of services that do not result in custom software include loading parameters to initialize program settings and arranging preprogrammed modules to form a complete program.~~ ~~(3-31-22)~~

~~**a.** Tax does not apply to the sale, license, or lease of custom software regardless of the form or means by which the program is transferred. The t~~Tax ~~does not~~ doesn't apply to the transfer of custom software or custom programming services performed in connection with the sale or lease of computer equipment if such charges are separately stated from the charges for the equipment. ~~(3-31-22)~~( )

b. ~~If the c~~Custom programming charges ~~are~~ not separately stated from the sale or lease of equipment~~, they will be considered~~ are taxable ~~as part of the sale~~. ~~(3-31-22)~~( )

c. Custom software includes a program prepared ~~to~~ for the special order of a customer who will use ~~the program~~ it to produce and sell or lease copies of the program. The resale of the program by the customer for who~~m~~ the custom software was prepared ~~will be~~ is a sale of canned software. ~~(3-31-22)~~( )

~~12. Purchases for Resale. Sales tax does not apply when computer hardware or software is purchased for resale. A properly executed resale certificate must be on file. See Rule 128 of these rules. (3-31-22)~~

08. Examples. Available at Sales and Use Tax Examples. ( )

028. HOTELS, MOTELS, LODGING, AND CAMPGROUNDS ~~(RULE 028)~~.
63-1801 through 63-1804, 63-3612(2), 67-4718, 67-4917B, 67-4917C, Idaho Code

01. Fees. Fees charged for providing hotel, motel, lodging, short-term rentals, vacation rentals, and campground accommodations are subject to ~~the~~ state sales tax, ~~the~~ Idaho Travel and Convention tax~~es~~, and may be subject to the Auditorium or Community Center District sales tax. This includes fees collected for short-term rentals and vacation rentals even when the sale is facilitated by a short-term rental marketplace. These taxes are explained in IDAPA 35.01.06~~, "Hotel/Motel Room and Campground Sales Tax Administrative Rules."~~ ~~(3-31-22)~~( )

02. Resale Purchases. Hotels, motels, lodging operators, short-term rentals, vacation rentals, and campgrounds may purchase tangible personal property for consumption by their customers without paying tax if the tangible personal property is included in the fee charged to the customer and is directly consumed by the customer in such a way that it cannot be reused. ~~Hotels, motels, lodging operators, short-term rentals, vacation rentals, and campgrounds must provide a resale certificate to their vendor when purchasing such items for resale. Examples~~ Items include: ~~(3-31-22)~~( )

a. Facial tissue, toilet tissue, disposable laundry pickup bags, and paper napkins. (3-31-22)

b. Soaps, hair shampoo, hair conditioners, and lotions. (3-31-22)

c. Disposable plastic drinking glasses, disposable plastic utensils, disposable shoeshine cloths, and disposable shower caps. (3-31-22)

d. Candies, beverages, meals, and newspapers furnished with the room. (3-31-22)

e. Room stationery, envelopes, notepads, pens, and matches. ~~(3-31-22)~~( )

03. Taxable Purchases. Tangible personal property which ~~is not~~ isn't included in the fee charged to the customer and not directly consumed by the customer is taxable when purchased by the hotel, motel, lodging operator, short-term rental, vacation rental, or campground. Taxable purchases include property not directly consumed by the customer, property that ~~is not~~ isn't disposable in nature, or property that is depreciated in the books and records of the hotel, motel, lodging operator, short-term rental, vacation rental, or campground. The hotel, motel, lodging operator, short-term rental, vacation rental, or campground is the user and consumer of such supplies and equipment and will pay sales tax on the purchase of such items. ~~Examples~~ Items include: ~~(3-31-22)~~( )

a. Bath towels, bathmats, linens, and bedding. (3-31-22)

b. Glassware, silverware, and ~~china~~ dishware. ~~(3-31-22)~~( )

c. Furniture and fixtures. (3-31-22)

d. Bibles, room service menus, and directories. (3-31-22)

e. Garbage can liners. (3-31-22)

f. Any tangible personal property available to the general public. (3-31-22)

029. PRODUCING, FABRICATING, AND PROCESSING ~~(RULE 029)~~.
Section~~s~~ 63-3612, 63-3613, Idaho Code

01. In General. Tax applies to charges for materials and labor used in producing, fabricating, processing, printing, imprinting, or the engraving of tangible personal property ~~for a consideration, whether~~

~~consumers furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, imprinting, or engraving~~. Producing, fabricating, and processing include any operation which results in the creation or production of tangible personal property. The operation can be a step or a series of steps in a process that will ultimately result in the creation or production of tangible personal property. ~~(3-31-22)~~( )

~~**a.** Example 1: An owner purchases cabinets from a cabinetmaker to be made according to specifications furnished by the owner. The cabinetmaker delivers the cabinets to the owner who installs them himself. A sales tax will be collected by the cabinetmaker from the owner measured by the entire sales price. (3-31-22)~~

~~**b.** Example 2: An owner purchases material, on which he pays a sales tax, which he delivers to a cabinetmaker. The cabinetmaker uses this material to manufacture cabinets for the owner according to specification. These cabinets are delivered to the owner and an agreed price is paid for the work done by the cabinetmaker. A sales tax will be collected from the owner, measured by the entire price charged by the cabinetmaker. (3-31-22)~~

~~**c.** Example 3: An individual takes a plaque, on which sales tax has been paid, to an engraver and requests the plaque be engraved with an inscription. The total price paid for the engraving is taxable. (3-31-22)~~

~~**d.** Example 4: A club purchases trophies from a retailer and requests that the trophies be engraved with individual names. The trophies are engraved and delivered for an agreed price. The measure of the sales tax is the price of the trophies plus the engraving charge. (3-31-22)~~

02. Repairing and Reconditioning ~~Distinguished~~. Producing, fabricating, ~~and~~ processing, or engraving doesn't include~~s any operation which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property. The terms do not include operations which do not result in the creation or production of tangible personal property or which do not constitute a step in a process or series of operations resulting in the creation or production of tangible personal property, but which constitute merely the~~ labor performed to repair, ~~or~~ recondition~~ing, of tangible personal property to~~ refit, or refurbish tangible personal property ~~it~~ for the use for which it was originally produced. Labor to fabricate tangible personal property that is then used in a repair is taxable. See Section 062. ~~(3-31-22)~~( )

~~**03. Cross-References**. (3-31-22)~~

~~**a.** Repairs and Renovation of Tangible Personal Property. See Rules 011 and 062 of these rules. (3-31-22)~~

~~**b.** Fabrications by Contractors. See Rule 012 of these rules. (3-31-22)~~

03. Examples. Available at Sales and Use Tax Examples. ( )

030. ADMISSIONS ~~DEFINED (RULE 030)~~.
Section 63-3612, Idaho Code

01. Admissions. Charges for admission to a place or event in Idaho include the right to remain in a place or use a seat or table or other similar accommodation and are taxable. The charge to gain access to a place or event is taxable whether that charge is designated as a cover charge, minimum charge or any such similar charge. (3-31-22)

a. When charges for admission allow access to a place or event for a limited period, any additional charge to extend that time is admission and is taxable. (3-31-22)

b. When a person or organization acquires the sole right to use any place or the right to dispose of or control the admissions to any place with the intent ~~to~~ of charg~~e~~ing people to attend the event, the amount paid for such right ~~is not~~ isn't subject to sales tax. Such a transaction constitutes a rental for resale. However, when the person or organization sells admission, the tax will apply to the amounts paid for such admission. If the person or organization ~~does not~~ doesn't charge people to attend the event, their rental of the recreational facility may be taxable. See ~~Rule~~ Section 129 ~~of these rules~~. ~~(3-31-22)~~( )

02. Rental of Tangible Personal Property. When a charge is made only for the rental of tangible personal property such as skates, golf clubs, etc., the rental will be taxable. If a lesser charge is made to a person not desiring to use the property or services offered, this lesser amount will be deemed to represent the amount charged for admission. (3-31-22)

031. RADIO AND TELECOMMUNICATIONS EQUIPMENT AND LAND MOBILE RADIO SERVICE OF SYSTEMS ~~(RULE 031)~~.
Sections 63-3612, 63-3621, Idaho Code

01. General Rule and Scope. ~~The sale, rental or lease of communication equipment and land mobile radio systems are taxable.~~ This ~~rule~~ section describes sales and use tax treatment of telephone terminal equipment or services and land mobile radio systems or service~~s~~. ~~(3-31-22)~~( )

02. Telephone Terminal Equipment and Services. (3-31-22)

a. The sale, rental, or lease of telephone terminal equipment is taxable. Telephone terminal equipment includes~~, but is not limited to,~~ desk sets, PBX systems, automated answering equipment, cellular telephones, and mobile radio telephones. ~~(3-31-22)~~( )

b. Fees for access charges, toll charges, call waiting, call forward, message recording, and similar charges to customers ~~are not~~ aren't taxable. ~~(3-31-22)~~( )

03. Land Mobile Radio Systems or Services. Land mobile radio systems and services, defined by 47 CFR § 90.7, are a regularly interacting group of base, mobile and associated control and fixed relay stations intended to provide land mobile radio communications service over a single area of operation. (3-31-22)

a. The sale, rental, or lease of terminal equipment or equipment located on the customer's premises is taxable. The equipment includes handsets, mobile telephones, antennae, and like or similar property. (3-31-22)

b. Separately stated fees for the installation of terminal equipment or equipment that will be located on the customer's premises ~~or is not~~ aren't taxable. ~~(3-31-22)~~( )

c. Separately stated fees for access charges, toll charges, and similar charges are not taxable. (3-31-22)

04. Provider Equipment. The owner or provider of telephone or land mobile radio systems and services ~~must~~ will pay a sales or use tax on any tangible personal property purchased for the use of the business. This includes ~~but is not limited to;~~ equipment ~~or tangible personal property~~ used in receiving or transmitting~~, excluding the equipment referenced in Subsection 031.02.a.,~~ office supplies, repair equipment, accounting or customer billing equipment, and equipment or devices or other property used to maintain or repair land mobile radio systems or services. Equipment referenced in Subsection 031.02.a. isn't provider equipment. ~~(3-31-22)~~( )

05. Drop-In Equipment and Inside Wiring. The installation of ~~the~~ drop-in equipment and inside wiring ~~useful or necessary~~ to bring ~~telephonic or radio~~ communication transmissions from a source outside the premises of the user~~, for example, telephone pole or transmitter,~~ to terminal equipment within the user's premises is an improvement to real property ~~and anyone performing the installation is a contractor~~. Drop-in equipment and inside wiring includes~~, but is not limited to,~~ wires, plugs, sockets, receptacles, connectors and similar items. See ~~Rule~~ Section 012 ~~of these rules~~ for tax treatment of contractors. ~~(3-31-22)~~( )

~~**06. Wireless Telecommunications Equipment**. A retailer may give away wireless telecommunications equipment as an incentive to start or continue a contract for telecommunications service. Such a use is exempt from tax pursuant to Section 63-3621(2), Idaho Code. For the purposes of this exemption "telecommunications service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information that is offered to the public for compensation. "Telecommunication service" does not include the one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, necessary for the selection of such video programming or other programming service, surveying, internet service, alarm monitoring service, or the provision of radio paging,~~

~~mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services).~~ ~~(3-31-22)~~

032. (RESERVED)

033. SALES AND FREE DISTRIBUTION OF NEWSPAPERS AND MAGAZINES ~~(RULE 033)~~.
Sections 63-3610, 63-3612, 63-3613, 63-3619, 63-3622, 63-3622T, Idaho Code

01. Subscriptions. Subscriptions to printed newspapers and magazines are sales of tangible personal property. ~~The sale will be taxed if the single copy price of each newspaper or magazine purchased by the subscriber exceeds eleven cents ($0.11). The single copy price is to be computed on an annual basis regardless of whether the subscription is paid weekly, monthly or on some other periodic basis.~~ ~~(3-31-22)~~( )

02. Single Copy Price. The single copy price is to be computed according to the following formula. (Published subscription price) x (Number of subscription periods in one (1) year) / (Number of issues a subscriber receives in one (1) year) = Single Copy Price. ~~If the single copy price as computed exceeds eleven ($0.11) cents, the subscription is taxable. If the single copy price is eleven cents ($0.11) or less, the subscription price is not taxable.~~ ~~(3-31-22)~~( )

~~**03. Computation of Tax**. If the subscription price is taxable, the tax is to be computed on the subscription price according to the schedule contained in Section 63-3619, Idaho Code.~~ ~~(3-31-22)~~

043. Subscription Price. As used in this rule, the terms published subscription price and subscription price mean the total amount charged for purchase and delivery of the newspaper and magazine, except that separately stated postage is to be excluded from the taxable subscription price. It is acceptable business practice for publishers to establish a price for their newspapers as separate weekday-only and Sunday-only issues. The provisions of this rule will be in effect in such cases. When the price is posted as a combined weekday-Sunday price, sales tax will be charged on the combined subscription price. (3-31-22)

~~**05. Individual Sales**. Individual or separate sales of newspapers or magazines, except as provided in Subsection 033.06 of this rule for a single price of eleven cents ($0.11) or less are not taxable. Individual or separate sales of newspapers or magazines for a single price exceeding eleven cents ($0.11) are taxable according to the schedule provided in Section 63-3619, Idaho Code. Separate or individual sales of newspapers or magazines together with taxable retail sales or other taxable tangible personal property is taxable if the total sales price of all taxable property included in the sale exceeds eleven cents ($0.11).~~ ~~(3-31-22)~~

064. Vending Machine Sales. Sales of newspapers or magazines through a vending machine are ~~governed by the provisions of Section 63-3613, Idaho Code, and Rule 058 of these rules, except when the cost of the newspaper is greater than the sales price,~~ taxed ~~will be~~ computed on the retail sales price otherwise directed in Idaho Code. ~~(3-31-22)~~( )

~~**07. Independent Retailer Sales**. The sale of newspapers by a publisher to an independent retailer will be tax exempt only if the retailer provides the publisher with a properly executed resale certificate. See Rule 128 of these rules. The incidence of sales tax then falls upon the independent retailer who has a seller's permit and will be responsible for collecting and remitting the sales tax on all newspapers thus purchased and resold.~~ ~~(3-31-22)~~

~~**08. Carriers Less Than Sixteen Years Old**. If the carrier is less than sixteen (16) years old, the publisher or other seller's permit holder from whom he or she obtains the newspapers will be responsible for the collection of sales tax and remitting such taxes to the Commission.~~ ~~(3-31-22)~~

095. Product Consumed by the Publisher. Eight-tenths of one percent (0.8%) of net press run of newspapers or magazines, will be taxed as product consumed by the publisher. Any percentage figure below eight-tenths of one percent (0.8%) is to be supported by accepted accounting methods generally used in the publishing industry. The value of the newspapers used is set at the retail price charged to the consumer. ~~Example~~ Formula: (Eight tenths of one percent (0.8%) of Daily Net Press Run) x (Single Copy Retail Price) x (Tax Rate) / Daily Net Press Run = Tax Per Copy. ~~(3-31-22)~~( )

106. **Single Unit Price and Net Press Run**. For purposes of the computation in Subsection 033.09 of this rule this calculation, single copy price is the amount computed calculated by the formula in Subsection 033.02 of this rule. Net press run is all readable, usable copies, including editorial copies, tearsheets, and archival copies, and excluding spoiled runs or printing waste. (3-31-22)( )

11. Cross-Reference. (3-31-22)

a. See Rule 058 of these rules, Sales Through Vending Machines. (3-31-22)

b. See Rule 127 of these rules, Free Distribution Newspapers. (3-31-22)

c. See Rule 128 of these rules, Certificates for Resale and Other Exemption Claims. (3-31-22)

07. Free Distribution Newspapers. ( )

a. Newspaper Format. The term "newspaper format" means a publication bearing a title, issued regularly at stated intervals of at least twelve (12) times a year, and formed of printed paper sheets without binding. Catalogs, advertising fliers, travel brochures, employee newsletters, theater programs, telephone directories, restaurant guides, posters, and similar publications are not publications in newspaper format. ( )

b. Qualifying for Exemption. Advertisements promoting the free distribution newspaper itself don't qualify as non-income producing informative material. Neither do logos, column headings, mastheads, borders, etc. ( )

034. (RESERVED)

035. LAYAWAY SALES (RULE 035).
Sections 63-3612, 63-3613, Idaho Code

01. In General. Sales tax must will be collected on the total sales price of the items on layaway at the time of sale when the customer takes possession of the merchandise. The sales tax is accrued and remitted to the state based on the tax rate in effect at the time of sale. Separately stated non-refundable layaway service charges are not taxable. (3-31-22)( )

02. The Time a Sale Occurs. A sale occurs when title to property passes through delivery to the customer or absolute and unconditional appropriation to a contract. (3-31-22)

a. The sales tax is accrued and remitted to the state based on the tax rate in effect at the time of sale. (3-31-22)

b. Separately stated nonrefundable layaway service charges are not taxable. (3-31-22)

036. SIGNS AND BILLBOARDS (RULE 036).
Sections 63-3609, 63-3612, 63-3613, 63-3622, Idaho Code

01. Signs and Billboards as Custom Made Articles. The fabrication, manufacturing, lettering, etc., of advertising or informational signs of whatever description, including, but not limited to, neon signs, display lettering on trucks, display cards, show cards, etc., are considered made-to-order goods or custom made articles and as such are subject to sales tax based upon the total sales price of the completed sign to the user. The sales price includes both material and labor. (3-31-22)

02**1**. **Lease or Rental of Signs**. The lease or rental of signs that are tangible personal property is taxable and sales tax will be collected and remitted to the state upon the date on which rental payments are due and owing the lessor. The tax will be measured by the gross rental receipts. A lease-purchase agreement which in fact a sale, will be treated as a sale and tax collected on the entire sales price at the date upon which the contract is executed. (3-31-22)( )

032. Material That Becomes Part of a Sign. The sale of advertising signs may consist of a mixed transaction including both a sale of tangible personal property and a sale of real property. (3-31-22)

a. ~~Persons who sell signs may buy materials which become a part of the product without paying tax if they give the seller the documentation required by Rule 128 of these rules. Both t~~The materials and labor necessary to fabricate ~~the~~ a sign are taxable unless an exemption applies. ~~Therefore, the entire price of the tangible personal property sold will be taxable to the customer.~~ ~~(3-31-22)~~( )

b. Signs may be attached to ~~poles or mountings that are affixed to~~ real property in such a way that they ~~are intended to remain in place and~~ become a real property improvement. The person installing materials into real property is ~~acting as~~ a contractor and is the consumer of the materials installed~~, such as the concrete or sign poles. The contractor owes a sales or use tax on the purchase of these materials~~. See Section 012. ~~(3-31-22)~~( )

043. Road Signs. Road signs ~~are signs installed alongside or above roads that provide roadway information to users of the road. Examples of road signs~~ include traffic signs such as speed limit, ~~signs and~~ stop ~~signs~~; street ~~signs;~~, recreational area ~~signs;~~, ~~highway signs such as~~ mileage ~~signs~~, ~~and~~ exit ~~signs;~~, and ~~highway exit service~~ other informational signs. ~~(3-31-22)~~( )

a. In general, road signs become real property upon installation. ~~Consequently, an installer of road signs acts as a~~A contractor installing road signs is improving real property when performing the installation work. ~~Therefore, a road sign installer~~ The contractor is the consumer of all materials used in the installation of the road sign. The ~~installer~~ contractor owes sales or use tax on its use of all sign materials regardless of whether the ~~installer~~ contractor purchased the materials or had the sign materials provided by the sign owner. However, if the sign owner has already paid sales or use tax on its purchase of the sign materials, the ~~installer~~ contractor ~~will not~~won't owe any additional use tax. ~~(3-31-22)~~( )

b. ~~Alternatively, i~~If a road sign is intended to ~~serve a~~ be temporary ~~purpose~~, the road sign ~~does not~~ doesn't become real property regardless of ~~the nature of its purpose or~~ how the road sign is affixed to real property. ~~(3-31-22)~~( )

~~i. Example 1: A contractor installs a stop sign on behalf of a public transportation department to adjust traffic flow during a period of road construction. The contractor removes the stop sign upon completion of the construction and returns the stop sign to the public transportation department. The stop sign remains tangible personal property while installed. Therefore, the contractor does not owe use tax.~~ ~~(3-31-22)~~

~~ii. Example 2: A contractor purchases signs used to warn approaching vehicles of a construction project that affects traffic flow such as "Be Prepared to Stop." The contractor maintains an inventory of such signs for use on a variety of projects. The signs only ever serve a temporary purpose for the duration of a project. The contractor does not resell the signs or install the signs on a permanent basis. The purchase of these signs is taxable to the contractor.~~ ~~(3-31-22)~~

054. ~~Custom Painting Directly on~~Displays, Graphics, or Signs Applied to Real Property. ~~A sale of e~~Custom ~~painting of~~ displays, graphics, or signs ~~directly on~~ applied to walls or windows of a building ~~is not considered to be~~ isn't a retail sale of tangible personal property and ~~is not~~ isn't taxable. The ~~sign painter~~ applicator pays sales or use tax on the purchases of materials used ~~to paint these custom displays, graphics or signs~~. ~~(3-31-22)~~( )

065. Billboards. Billboards~~, which are also referred to as twenty-four (24) sheet posters and painted billboards,~~ are not in the same category as signs ~~covered in this rule~~. The rental of a billboard ~~is not~~ isn't a rental of tangible personal property ~~under the Idaho Sales Tax Act~~. Materials used in the construction, erection, ~~painting,~~ and maintenance of a billboard ~~is~~ are taxable. ~~(3-31-22)~~( )

037. AIRCRAFT AND FLYING SERVICES ~~(RULE 037)~~.
Sections 21-101, ~~63-3607A,~~ 63-3612, ~~63-3613, 63-3622C,~~ 63-3622GG, Idaho Code

01. Definitions. For the purposes of this ~~rule~~ section, the following terms have the following meanings: ~~(3-31-22)~~( )

a. Aircraft. The term aircraft ~~means any contrivance now known or hereafter invented, used, or designed, for navigation of or flight in the air~~ is defined in Section 21-101 (b), Idaho Code. ~~(3-31-22)~~( )

~~**b.** Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, wildlife viewing, hot air balloon rides, or other similar activities.~~ ~~(3-31-22)~~

~~**c**~~**b.** Freight. Goods transported by a carrier between two (2) points. ~~Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. See Subsection 037.06 of this rule.~~ ~~(3-31-22)~~( )

~~**d.** Transportation of Passengers. The transportation of passengers means the service of transporting passengers from one (1) point to another. It does not include survey flights, recreational or sightseeing flights, nor does it include any flight that begins and ends at the same point.~~ ~~(3-31-22)~~

~~**e.** Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code.~~ ~~(3-31-22)~~

~~**f**~~**c.** Nonresident Businesses and Other Organizations. ~~A corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state, and does not have consistent operations in this state.~~ A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more aircraft ~~is not~~ isn't a nonresident. The use of an aircraft owned by such an entity will be subject to use tax upon its first use in Idaho. ~~(3-31-22)~~( )

~~**g**~~**d.** Day. ~~For the purpose of this rule a~~Any part of a ~~day~~ 24-hour period from midnight to midnight is a day. ~~(3-31-22)~~( )

~~**h**~~**e.** Transportation of ~~freight or~~ passengers or freight for hire. ~~"Transportation of freight or passengers for hire" means t~~The business of transporting persons or property for compensation from one (1) location on the ground or water to another. It doesn't include any flight that begins and ends at the same point. ~~(3-31-22)~~( )

~~**i**~~**f.** Common Carrier. The operation of an aircraft in the transportation of ~~freight or~~ passengers or freight for hire by members of the public. ~~When operating as a common carrier, the operator or owner of an aircraft usually charges a rate that will generate a profit.~~ For flights in which federal regulations limit or minimize ~~this~~ profit, the aircraft is likely not operating as a common carrier. The term "public" doesn't include: ~~(3-31-22)~~( )

~~**j.** Public. The public does not include:~~ ~~(3-31-22)~~

i. Owners or operators of the aircraft; (3-31-22)

ii. Employees of the aircraft owner or operator; (3-31-22)

iii. Guests of the aircraft owner or operator; (3-31-22)

iv. Any of the above with the same relationship to a parent of the aircraft owner, a subsidiary of that parent, or a subsidiary of the aircraft owner; (3-31-22)

v. An individual or entity flying under a time sharing agreement which is an arrangement where an aircraft owner leases ~~his~~ their aircraft with flight crew to another individual or entity and the aircraft owner limits the amount charged in accordance with federal regulations; or ~~(3-31-22)~~( )

vi. An individual or entity flying under an interchange agreement which is an arrangement where an aircraft owner leases ~~his~~ their aircraft to another aircraft owner in exchange for equal time on the other owner's aircraft and any fees charged ~~may not~~ can't exceed the difference between the costs of owning, operating, and maintaining the two (2) aircraft. ~~(3-31-22)~~( )

02. Sales of Aircraft. Sales of aircraft are taxable unless an exemption applies. Section 63-3622GG, Idaho Code, provides an exemption for the sale, lease, purchase, or use of an aircraft: (3-31-22)

a. Primarily used to provide passenger or freight services for hire as a common carrier; (3-31-22)

i. Example 1: An aircraft is flown for the following activities: the aircraft owner's personal vacations, flight instruction, and charter operations for hire as a common carrier. The flight hours for each activity are forty-five (45), sixty-five (65) and seventy-five (75) hours respectively in a consecutive twelve (12) month period. The combined flight hours for the taxable uses of the aircraft, owner and flight instruction, (45 + 65 = 110 hours) are more than the hours operating as a common carrier (75 hours). Since the greater use of the aircraft is performing activities that do not qualify for an exemption, the use of the aircraft will be taxable at fair market value as of that point in time. (3-31-22)

ii. Example 2: A charter aircraft service uses an aircraft for three purposes: flight instruction, air ambulance service, and charter flights operated as a common carrier. The flight hours for each activity are one hundred (100), sixty (60) and fifty (50) respectively in a consecutive twelve (12) month period. The combined flight hours for the exempt uses of the aircraft, as an air ambulance and as a common carrier (60 + 50 = 110 hours), are more than the hours used for flight instruction one hundred (100) hours. Since the greater use of the aircraft is performing activities that qualify for an exemption, the use of the aircraft will be exempt. (3-31-22)

b. Primarily used for emergency transportation of sick or injured persons; (3-31-22)

c. That is a fixed-wing aircraft primarily used as an air tactical group supervisor platform under a contract with a governmental entity for wildfire activity; or (3-31-22)

d. Purchased for use outside this state, when the aircraft is upon delivery taken outside this state, but only if: (3-31-22)

i. The aircraft is sold to a nonresident as defined in Subsection 037.01.d. or 037.01.e. of this rule; and (3-31-22)

ii. The registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any consecutive twelve (12) month period. (3-31-22)

03. Sales of Aircraft Repair Parts to Nonresidents. Subject to the restrictions of Section 63-3622GG, Idaho Code, sales of aircraft repair parts, including those paid for under a warranty or service agreement, are exempt from tax when installed on an aircraft owned by a nonresident individual or business as defined in Subsection 037.01 of this rule. (3-31-22)

04. Federal Law Prohibits States From Taxing Sales of Air Transportation. See 49 U.S.C. Section 40116. For this reason, sales of intrastate transportation as described by Section 63-3612(i), Idaho Code, are not taxable in Idaho. (3-31-22)

05. Rentals and Leases of Aircraft. The rental or lease of an aircraft without operator is a taxable sale, other than as provided in Subsection 037.02 of this rule. See Rule 024 of these rules. (3-31-22)

062. Aerial Contracting Services. Businesses primarily engaged in the application of agricultural chemicals as described in Federal Aviation Regulation Part 137, or in activities involving the carrying of external loads as described in Federal Aviation Regulation Part 133, such as aerial logging, are performing aerial contracting services. Such businesses are not primarily engaged in the transportation of freight. (3-31-22)( )

a. Aircraft purchased, rented, or leased for aerial contracting are taxable unless an exemption applies. It makes no difference if the service is provided to a government agency or a private individual or company. Sales or use tax also applies to tThe purchase of repair parts, oil, and other tangible personal property are taxable. (3-31-22)( )

~~**b.** When aircraft held for resale are used by the owner, who is an aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service.~~ ~~(3-31-22)~~

~~**07. Air Ambulance Service**. Charges for the emergency transportation of sick or injured persons, including standby time, are not taxable.~~ ~~(3-31-22)~~

0~~8~~3. **Flying Instructions**. Flying instructions or lessons which may include solo flights are a service and the fees are not taxable. (3-31-22)

a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are taxable. (3-31-22)

b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (3-31-22)

~~**09. Recreational Flights**. Sales and purchase of aircraft used primarily for providing recreational flights are taxable.~~ ~~(3-31-22)~~

~~**10. Aircraft Held for Resale**. Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business.~~ ~~(3-31-22)~~

~~**a.** Rentals of aircraft held for resale are taxable as provided by Subsection 037.05 of this rule.~~ ~~(3-31-22)~~

~~**b.** When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used.~~ ~~(3-31-22)~~

~~**c.** Parts and oil purchased to repair or maintain aircraft held for resale are not taxable. The aircraft dealer provides the supplier with a properly completed resale certificate. See Rule 128 of these rules.~~ ~~(3-31-22)~~

~~**11. Fuel**. The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax.~~ ~~(3-31-22)~~

04. Examples. Available at Sales and Use Tax Examples. ( )

038. FLYING CLUBS (RULE 038).
Sections 63-3612, 63-3613, 63-3620, Idaho Code

01. In General. A flying club is an association of persons who have purchased or leased aircraft for the purpose of renting the aircraft to club members. The aircraft rentals to the club members are considered bare equipment rentals and are taxable at a reasonable rental value. (3-31-22)

02. Rental or Sale of Aircraft to Members. The flying club is a retailer who is ~~required~~ obligated to obtain a seller's permit and collect and remit sales tax. ~~The sales tax, at the prevailing tax rate, is to be collected by the flying club and remitted to the Commission in the manner prescribed for other retailers. The tax is applicable whether the aircraft is sold or is rented on an hourly, daily, weekly, monthly, or any other basis. The flying club, primarily engaged in the business of making bare equipment rentals to club members, may purchase or lease the aircraft without paying sales tax by giving to its vendor a valid resale certificate as required by Rule 128 of these rules~~ See Section 024. ~~(3-31-22)~~( )

03. Other Charges to Members. Charges for membership fees are generally taxable. If the membership fee is ~~in no way~~ not related to the rental of the aircraft, the fee ~~is not~~ isn't taxable. Separately stated ~~C~~charges for flight instruction~~, if such charges are separately stated, are not~~ aren't taxable. However, charges for logbooks, ~~and~~ flight instruction manuals, or other tangible personal property are taxable. ~~(3-31-22)~~( )

04. Aircraft Repair Parts. If the flying club is responsible for the maintenance of the aircraft, the club may purchase the necessary repair and replacement parts without paying tax ~~by providing a valid resale certificate. See Rule 128 of these rules~~. ~~(3-31-22)~~( )

~~**05. Cross-Reference**. Aircraft and Flying Services see Rule 037 of these rules.~~ ~~(3-31-22)~~

039. ~~BULLION, COINS, OR OTHER CURRENCY (RULE 039).~~(RESERVED)
~~Sections 63-3612, 63-3613, 63-3622V, Idaho Code~~

~~**01. Sales and Purchases of Bullion**. Sales and purchases of precious metal bullion and monetized bullion are exempt from sales tax.~~ ~~(3-31-22)~~

~~**a.** Precious metal bullion is an elementary precious metal, such as gold, silver, platinum, rhodium and chromium which has been processed by smelting or refining and where the value of the metal depends upon the content and not upon its form.~~ ~~(3-31-22)~~

~~**b.** Monetized bullion is a coin made of gold, silver or other metals which has been, is or will be used as a medium of exchange under the laws of this state, the United States or any foreign nation.~~ ~~(3-31-22)~~

~~**02. Jewelry or Other Works of Art**. The exemption does not extend to coins or money sold to create jewelry or other works of art. The exemption also does not extend to sales of coins whose values may be determined by their form, and which are not minted or manufactured as currency.~~ ~~(3-31-22)~~

~~**a.** Sales of medallions, tokens or other coins created to commemorate a historical event are taxable. However, sales of Idaho commemorative medallions through the Office of the Treasurer of the state of Idaho or its agents are exempt pursuant to Section 63-3622PP, Idaho Code.~~ ~~(3-31-22)~~

~~**b.** Sales of precious metal ingots are exempt from sales tax. Sales of jewelry items, such as belt buckles, bracelets or necklaces, containing silver dollars or other legal tender or ingots are taxable.~~ ~~(3-31-22)~~

~~**c.** Sales of coins, such as Krugerands the one (1) ounce gold coins of the Republic of South Africa, are exempt, unless incorporated into a jewelry item or other decoration.~~ ~~(3-31-22)~~

040. PROFESSIONAL TAXIDERM~~IST~~Y ~~(RULE 040)~~.
Sections 63-3612, 63-3613, Idaho Code

01. In General. ~~The t~~Taxidermy ~~profession~~ is subject to Idaho sales and use tax ~~under the category of custom made items. The underlying reason for the custom made section of Idaho Code is to equalize the tax on custom made items to those that could be purchased and sold in channels of trade~~. When ~~buying~~ selling an item fabricated from ~~either~~ a hide, ~~or~~ fur pelt, or other animal material the ~~purchase~~ entire sales price is ~~based on the full cost of material and labor. In the instance of the taxidermy profession, the untanned pelt of hide would be the basic raw material from which the finished product was fabricated~~ taxable even if the customer supplies the raw materials. See Section 029. ~~(3-31-22)~~( )

~~**02. Fabrication**. A deerskin brought to the taxidermist for tanning should be taxed on the price charged by the taxidermist for tanning. If later that tanned skin is taken to a business that fabricates either gloves, moccasins, or jackets, again the fabricator should charge tax on the cost of fabricating the tanned hide making the total tax on the item fabricated comparable with the deerskin, gloves, etc., purchased from a retail store. This also would apply to the mounting of antlers, etc., and even to the making of full mounts of animals. At the time the taxidermist receives the head, the antlers, etc., of the animal from the customer, he has received only a basic piece of material that would be useless until he performs certain functions to place it in a usable or finished condition.~~
~~(3-31-22)~~

03. Materials. ~~All materials,~~ Items such as mounting material, tanning ~~material~~ products~~,~~ and preservatives, and other materials incorporated into the finished product may be purchased for resale by the taxidermist ~~tax exempt since he will charge tax on the finished product. He may provide his supplier with a resale certificate. See Rule 128 of these rules~~. ~~(3-31-22)~~( )

041. FOOD, MEALS, OR DRINKS ~~(RULE 041)~~.
Sections 63-3607, 63-3612(2)(b), 63-3621(16), 63-3622J, Idaho Code

01. In General. This ~~rule~~ section covers the imposition of tax on sales of food, meals, or drinks ~~by commercial establishments, college campuses, conventions, nonprofit organizations, private clubs, and similar organizations~~. ~~(3-31-22)~~( )

~~**02. Commercial Establishments**. Sales tax is imposed on the amount paid for food, meals, or drinks furnished by any restaurant, cafeteria, eating house, hotel, drugstore, diner, club, or any other place or organization regardless of whether meals are regularly served to the public.~~ ~~(3-31-22)~~

0~~3~~2. Clubs and Organizations. Private clubs, country clubs, athletic clubs, fraternal, and other similar organizations are retailers of tangible personal property sold by them, even if they make sales only to members. Such organizations are to collect and remit Idaho sales tax on all taxable sales. Taxability of membership dues depends upon what is provided as a part of the membership dues. Special rules apply to religious organizations. See ~~Rule~~ Section 086 ~~of these rules~~. ~~(3-31-22)~~( )

a. When an organization holds a function in its own quarters, maintains its own kitchen facilities, and sells tickets which include items such as meals, dancing, drinks, entertainment, speakers, and registration fees (convention), the charges may be separated and tax collected on meals, drinks, and admission fees when the ticket is sold. The organization holding the function or convention is ~~required~~ obligated to collect and remit Idaho sales tax. ~~For example, an organization holds a dinner dance in its own building. It charges twenty dollars ($20) for dinner and dancing and twelve dollars ($12) for registration and speakers. Since the two (2) amounts are stated separately, tax is only imposed on twenty dollars ($20). Sales of meals and the use of recreational facilities are taxable. Registration fees, speaker fees, and similar charges are not taxable.~~ ~~(3-31-22)~~( )

b. When an organization holds a function in facilities operated by a restaurant or motel and sells tickets for meals, drinks, and other services, no sales tax applies to these sales if the organization pays the restaurant or hotel sales tax on the meals and drinks furnished and all other services performed. The hotel, restaurant, or caterer will collect and remit the tax to the state. (3-31-22)

0~~4~~3. Colleges, Universities, and Schools. A cafeteria operated by a state university, junior college district, public school district, or any other public body is treated the same as a cafeteria operated by a private enterprise. Purchases of food for resale are not taxable; meals sold are taxable. (3-31-22)

a. If a meal is paid for by cash or a meal ticket is sold to the student, tax is computed on the total sales price of the meal. If meals are sold as part of a room and board fee, the amount paid for board is separated from the amount paid for the room. Tax is calculated and collected on that part of the total fee allocated to the purchase of meals. (3-31-22)

~~**b.** Sales of meals by public or private schools under the Federal School Lunch Program are exempted by Section 63-3622J, Idaho Code.~~ ~~(3-31-22)~~

0~~5~~4. Fraternities, Sororities, and Cooperative Living Group. Fraternities and sororities generally purchase and prepare food for their own consumption. The food is prepared and served in a cooperative manner by members of the fraternity or by employees hired by the group for this purpose. Purchases made by the fraternity or sorority are for consumptive use and are taxable. There is no sale of meals to fraternity or sorority members and no sales tax imposed on any allocated charge for them whether stated separately or included as part of a lump sum charge for board and room. (3-31-22)

a. If a concessionaire is retained by the fraternity or sorority to furnish meals, the concessionaire is a retailer engaged in the business of selling meals; food purchases are for resale and meals supplied by the concessionaire to members of the fraternity or sorority are taxable. (3-31-22)

b. If the fraternity or sorority regularly furnishes meals for a consideration to nonmembers, these meals become taxable and the fraternity or sorority is to obtain an Idaho seller's permit. (3-31-22)

c. Cooperative living groups are normally managed in much the same manner as fraternities and sororities. Food is purchased and meals are prepared and served by members of the group or their employees. The same conditions outlined above for fraternities and sororities apply to cooperative living groups. (3-31-22)

065. Boarding Houses. Sales of meals furnished by boarding houses are taxable, when they are charged separately. This applies even if the meals are served exclusively to regular boarders. Where no separate charge or specific amount is paid for meals furnished, but is included in the regular board and room charges, the boarding house or other place ~~is not~~ isn't considered to be selling meals, but is the consumer of the items used in preparing such meals. ~~(3-31-22)~~( )

076. Honor System Snack Sales. Honor system snack sales are those items of individually sized prepackaged snack foods, such as candy, gum, chips, cookies or crackers, which customers may purchase by depositing the purchase price into a collection receptacle. Displays containing these snacks are generally placed in work or office areas and are unattended. Customers are on their honor to pay the posted price for the article removed from the display. Purchases from these snack displays are taxable. (3-31-22)

a. Sales tax applies to the total sales. The posted price is to include a statement that sales tax is included. (3-31-22)

b. The formula for computing the taxable amount is: ~~TS~~total sales/ (100% + ~~TR~~tax rate) ~~where TS is total sales and TR is the tax rate~~. ~~(3-31-22)~~( )

087. Church Organizations. Special rules apply to religious organizations. See ~~Rule~~ Section 086 ~~of these rules~~. ~~(3-31-22)~~( )

~~**09. Senior Citizens**. Meals sold under programs that provide nutritional meals for the aging under Title III of the Older Americans Act, Public Law 109-365, are exempted from the sales tax by Section 63-3622J, Idaho Code. Organizations selling such meals are to obtain an Idaho seller's permit and collect sales tax when selling meals to buyers who are not senior citizens.~~ ~~(3-31-22)~~

~~1~~08. **Food or Beverage Tastings**. If a participant pays to participate in a food or beverage tasting, the charge to participate in the tasting is taxable. ~~The provider of the samples does not owe a sales or use tax on its purchase or use of the product.~~ ~~(3-31-22)~~( )

~~11~~09. **Nontaxable Purchases by Establishments Selling Meals or Beverages**. Persons who serve food, meals, or drinks for a consideration may purchase tangible personal property without paying tax if the property is for resale to their customers, is included in the fee charged to the customer, and is directly consumed by the customer in such a way that it cannot be reused. ~~A resale certificate is provided to the vendor when the establishment purchases such items for resale. See Rule 128 of these rules. Examples of i~~Items which are purchased for resale and directly consumed by customers include: ~~(3-31-22)~~( )

a. Disposable containers~~, such as milkshake containers, paper or styrofoam cups and plates, to-go containers and sacks, pizza cartons, and chicken buckets~~ for food or drinks. ~~(3-31-22)~~( )

b. Disposable supplies included in the price of the meal or drink, such as drinking straws, stir sticks, utensils, paper napkins, paper placemats, and toothpicks. ~~(3-31-22)~~( )

c. Candies, popcorn, drinks, or food, when included in the consideration paid for other food, meals, or drinks. (3-31-22)

120. Taxable Purchases by Establishments Selling Meals or Beverages. Tangible personal property which ~~is not~~ isn't included in the fee charged to the customer and not directly consumed by the customer is taxable when purchased by the restaurant, bar, food server, or similar establishment. Tangible personal property which ~~is not~~ isn't directly consumed by the customer includes property that is ~~nondisposable in nature~~ reusable or property that is depreciated in the books and records of the restaurant, bar, or similar establishment. ~~Examples of t~~Taxable purchases include: ~~(3-31-22)~~( )

a. Waxed paper, stretch wrap, foils, paper towels, garbage can liners, or other paper products consumed by the retailer, as well as linens, silverware, glassware, tablecloths, towels, and ~~nondisposable~~ reusable napkins, furniture, fixtures, cookware, and menus. ~~(3-31-22)~~( )

b. Any tangible personal property available to the general public, such as restroom supplies and matches. (3-31-22)

~~**13. Free Giveaways to Employees**. It is common practice for a retailer to give away prepared food and beverage, including full meals, to its employees free of charge. Giveaways of this nature normally trigger a use tax liability for the retailer calculated on the value of the items given away. However, if the retailer is in the business of selling prepared food and beverage, giveaways of prepared food and beverage to its employees are not taxable. Retailers that would qualify include restaurants and grocery stores with a deli or similar section that sells prepared food.~~ ~~(3-31-22)~~

~~**a.** For purposes of this subsection, prepared food means food intended for human consumption that:~~ ~~(3-31-22)~~

~~i. Is heated when given away; or~~ ~~(3-31-22)~~

~~ii. Consists of two (2) or more ingredients combined by the retailer and given away as a single item; or~~ ~~(3-31-22)~~

~~iii. Is customarily served with utensils.~~ ~~(3-31-22)~~

~~**b.** For purposes of this subsection, prepared beverage means any beverage intended for human consumption.~~ ~~(3-31-22)~~

11. Examples. Available at Sales and Use Tax Examples. ( )

042. PRICE AND PRODUCT LABELS ~~(RULE 042)~~.
Sections 63-3612 and 63-3613, Idaho Code

01. Price Labels. Price labels, stickers, pricing ink, pricing guns and shelf labels purchased by retailers are property used and consumed by the retailer in the regular course of business and are taxable. ~~-~~ ( )

02. Product Labels. ~~Pricing~~Product labels that contain product information such as ingredients, nutritional information, or caloric information are not taxable, since the utility of the label ~~does not~~ doesn't end with the purchase of the product. Product labels that don't have ingredients, nutritional, or caloric information, such as freshness or promotional labels, are taxable as advertising and are property used and consumed by the retailer. ~~(3-31-22)~~( )

043. SALES PRICE OR PURCHASE PRICE DEFINED ~~(RULE 043)~~.
Sections 63-3612 and 63-3613, Idaho Code

01. Sales Price and Purchase Price. The terms sales price and purchase price may be used interchangeably. Both mean the price paid by the customer ~~or user~~ to the seller ~~including:~~. ~~(3-31-22)~~( )

~~**a.** The cost of transporting goods to the seller. See Rule 061 of these rules.~~ ~~(3-31-22)~~

~~**b.** Manufacturer's or importer's excise tax. See Rule 060 of these rules.~~ ~~(3-31-22)~~

~~**c.** Services agreed to be rendered as part of the sale.~~ ~~(3-31-22)~~

~~**d.** Separately stated labor charges to produce or fabricate made to order goods. See Rule 029 of these rules.~~ ~~(3-31-22)~~

02. Services Agreed to Be Rendered as a Part of the Sale. ~~The sales and use tax is computed on the sales price of a transaction.~~ The ~~term "~~taxable sales price~~" is defined by Section 63-3613, Idaho Code, to~~ includes "services agreed to be rendered as a part of the sale." The following ~~items are among those that are part of the sales price and, therefore, may not be deducted before computation of the sales price. This is not intended to be~~ isn't an exclusive list ~~of such items~~: ~~(3-31-22)~~( )

a. Any charges for any services to bring the subject of a sale to its finished state ready for delivery and in the condition specified by the buyer, including charges for assembly, fabrication, alteration, lubrication, engraving, monogramming, cleaning, or any other servicing, customizing or dealer preparation except those exempted in Section 63-3622OO, Idaho Code. (3-31-22)

~~**b.** Any charge based on the amount or frequency of a purchase, such as a small order charge or the nature of the item sold, such as a slow-moving charge for an item not frequently sold. (3-31-22)~~

~~**c.** Any commission or other form of compensation for the services of an agent, consultant, broker, or similar person. (3-31-22)~~

~~**d**~~**b.** Any charges for warranties, service agreements, insurance coverage, or other services ~~required~~ mandated by the vendor to be taken as a condition of the sale. If the sale could be ~~consummated~~ completed without the payment of these charges, the charges are not part of the taxable sales price if separately stated. ~~Also, s~~See ~~Rule~~Section 049 ~~of these rules~~. ~~(3-31-22)~~( )

~~**e.** Any fuel surcharges except those charges which the vendor can document are related only to delivery of the property to the end customer. (3-31-22)~~

~~**f.** Any environmental or disposal fee except those fees directly imposed by a governmental agency. (3-31-22)~~

~~**03. Charges Not Included**. Sales price does not include charges for interest, carrying charges, amounts charged for optional insurance on the property sold, or any financing charge. These various charges may be deducted from the total sales price if they are separately stated in the contract. In the absence of a separate statement, it will be presumed that the amount charged is part of the total sales price. (3-31-22)~~

~~**04. Gratuities**. When a gratuity is paid in addition to the price of a meal, no sales tax applies to the gratuity. A gratuity can be paid voluntarily by the customer or be required by the seller. A gratuity is also commonly known as a tip. (3-31-22)~~

~~**a.** If a gratuity does not meet all of the following requirements, the gratuity will be taxable: (3-31-22)~~

~~i. It is paid to the service provider of the meal as additional income to the base wages of the service provider; (3-31-22)~~

~~ii. It is separately stated on the receipt or be voluntarily paid by the customer; and (3-31-22)~~

~~iii. It is not used to avoid sales tax on the actual price of the meal. (3-31-22)~~

~~**b.** For the purposes of Subsection 043.04 of this rule, the following definitions apply: (3-31-22)~~

~~i. Meal. Food or drink prepared for or provided to a customer. (3-31-22)~~

~~ii. Service provider. An individual directly involved in preparing or providing a meal to a customer. This includes, but is not limited to, the server, the busser, the cook and the bartender. This does not include individuals who manage or own the company if they are not directly involved in preparing and providing a meal. (3-31-22)~~

~~**05. Service Charges**. Amounts designated as service charges, added to the price of meals or drinks, are a part of the selling price of the meals or drinks and accordingly, are included in the taxable sales price, even if the~~

~~service charges are made in lieu of tips and paid over by the retailer to his employees.~~ ~~(3-31-22)~~

03. **Costs of Business**. Costs passed along by the seller to their customer don't reduce the taxable sales price. The following isn't an exclusive list: ( )

a. Any commission or other form of compensation for the services of an agent, auctioneer, consultant, broker, or similar person. ( )

b. Any fuel surcharges except those charges which the vendor can document are related only to delivery of the property to the end customer. ( )

c. Any convenience, surcharge, processing, or other fee imposed by a seller on a buyer paying with a financial transaction card such as a credit card, debit card, check card, or other banking instrument or device. ( )

04. **Added Charges**. Charges added by the seller to the sales price are taxable unless excluded by statute. The following isn't an exclusive list of taxable charges: ( )

a. Any charge based on the amount or frequency of a purchase, such as a small order charge or the nature of the item sold, such as a slow-moving charge for an item not frequently sold. ( )

b. Any amounts designated as service charges, including those added to the price of meals, drinks, delivery charges, or admission charges. ( )

c. Charges added to the price due to a surge in demand or during a particular time frame. ( )

044. TRADE-IN~~S,~~ AND TRADE-DOWN~~S AND BARTER (RULE 044)~~.
Sections 63-3612, 63-3613, 63-3621, Idaho Code

01. Trade-In~~s~~. A trade-in is the amount allowed by a retailer on merchandise accepted as payment for other merchandise. Merchandise is tangible personal property which is, or becomes, part of an inventory held for resale. ~~(3-31-22)~~( )

02. **Trade-Down**. A trade-down is a transaction in which a vendor accepts a trade-in from the customer that equals or exceeds the value of the merchandise sold to the customer. The taxable sales price is reduced to zero (0) and no sales tax is due on the transaction. ( )

0~~2~~3. Trade~~-In~~ Allowance. When a retailer sells merchandise from ~~his~~ their resale inventory and lets the customer trade ~~in~~ other goods which the retailer places in ~~his~~ their resale inventory, the taxable sales price of the merchandise may be reduced by the amount allowed as trade ~~in~~. ~~To qualify for the~~ A trade ~~in~~ allowance~~,~~ will qualify if the property traded ~~in~~ meets ~~all of~~ the following criteria: ~~(3-31-22)~~( )

a. The property is consideration delivered by the buyer to the seller; (3-31-22)

b. The sales documents, executed not later than the time of sale, identify both the property being purchased and the property being traded ~~in~~; and ~~(3-31-22)~~( )

c. The delivery of the trade ~~in~~ and the purchase are components of a single transaction. ~~(3-31-22)~~( )

d. ~~Example: A customer buys a car from a dealer for four thousand dollars ($4,000). A trade-in of one thousand five hundred dollars ($1,500) is allowed for the customer's used car. Tax is charged on two thousand five hundred dollars ($2,500)~~The buyer is an owner of the property being traded. ~~(3-31-22)~~( )

~~**03. Trade-Downs**. A trade-down is a transaction in which a vendor accepts a trade-in from the customer that equals or exceeds the value of the merchandise sold to the customer. The taxable sales price is reduced to zero (0) and no sales tax is due on the transaction.~~ ~~(3-31-22)~~

04. Disallowed Trade-~~In~~ Allowances~~.~~ ~~(3-31-22)~~( )

a. Private Party Transactions. A trade-~~in~~ allowance ~~is not~~ isn't allowed on transactions between individuals because the trade-~~in~~d property ~~does not~~ doesn't become a part of an inventory held for resale. ~~(3-31-22)~~( )

~~i. Example: Two (2) individuals exchange cars of equal value. No money, property, service, or consideration other than the cars are exchanged. Both parties pay tax on the fair market value of the vehicle received in the barter. (3-31-22)~~

~~ii. Example: Two (2) individuals, neither of whom are car dealers, exchange cars of different values. Tom's vehicle, which is worth ten thousand dollars ($10,000), is transferred to Bill. Bill's car, which is worth eight thousand dollars ($8,000), is transferred to Tom. Bill pays Tom two thousand dollars ($2,000). The trade-in allowance is not applicable because neither car is merchandise. Tom pays use tax on eight thousand dollars ($8,000); Bill pays use tax on ten thousand dollars ($10,000). (3-31-22)~~

~~**b.** Manufactured Homes, New Park Model Recreational Vehicles, and Modular Buildings. Trade-in allowances are not allowed on the sale of manufactured homes, new park model recreational vehicles, and modular buildings. See IDAPA 35.01.02.048 of these rules. (3-31-22)~~

~~**05**~~**b.** Insurance Settlements. An insurance settlement ~~does not~~ doesn't qualify as a trade-~~in~~ allowance. ~~Example: Tom is involved in a car accident. His insurance company determines the damage exceeds the value of the car and settles with Tom on that basis. If Tom buys another car, he pays sales tax on the entire sales price of the replacement car. (3-31-22)~~( )

0~~6~~5. Core Charges. Parts for cars, trucks, and other types of equipment are often sold with an added core charge. When the used core is returned, the core charge is refunded. This is essentially a trade-in of a used part for a new part. Since the seller cannot be certain that the customer will return a reusable core, such core charges are taxable. The tax on the core charge will be refunded by the seller at the time credit for the core charge is allowed. (3-31-22)

0~~7~~6. Trade-In for Rental/Lease Property. When tangible personal property is traded in as partial payment for the rental or lease of other tangible personal property, sales tax applies to all payments made after the value of the trade-in property has been depleted and the lessor begins charging for the lease or rental. The methods of applying the trade-in value to the lease are: ~~(3-31-22)~~( )

a. The trade-in value may be subtracted from the value of the leased or rented property, thereby reducing the monthly payments and the sales tax due on those payments. (3-31-22)

b. The trade-in value may be subtracted from the initial lease payments, with no sales tax due on those payments until it is used up. (3-31-22)

c. A combination of the two (2) methods, above. (3-31-22)

~~**d.** Example, a lessor leases a car for thirty-six (36) months at two hundred fifty dollars ($250) per month. The value on which the lease payments are based is ten thousand dollars ($10,000). The customer trades in a car worth two thousand dollars ($2,000). (3-31-22)~~

~~i. Alternative 1: The customer and lessor agree to reduce the value on which the lease is based by two thousand dollars ($2,000) and reduce the payments to only two hundred dollars ($200) per month for thirty-six (36) months. Sales tax is due on each two hundred dollar ($200) payment. (3-31-22)~~

~~ii. Alternative 2: The customer and lessor agree to apply the two thousand dollar ($2,000) trade-in allowance against the two hundred fifty dollar ($250) per month payments for the first eight (8) months of the lease. Sales tax is not due until the trade-in value is used up and the lessee is required to begin making monthly payments. (3-31-22)~~

~~iii. Alternative 3: The customer and lessor agree to combine the two methods and apply one thousand dollars ($1,000) against the value on which the lease is based and use the remaining one thousand dollars ($1,000) against the monthly payments, reducing the sales tax liability accordingly.~~ ~~(3-31-22)~~

08~~7~~. Rental/Lease Property Traded-In. When a person disposes of tangible personal property that is leased and assigns his right to purchase the leased property to the retailer, no trade-in allowance is given for the amount of the residual buyout paid by the retailer. However, if the residual buyout amount which the lessee would pay to purchase the property is less than the amount that would be allowed by the retailer as a trade-in if the lessee had actually owned the vehicle, then the taxable sales price may be reduced by the difference between the total trade-in amount and residual buyout. (3-31-22)

~~**a.** Example: A person is the lessee of an automobile. Near the end of the lease term, the lessee enters into an agreement to purchase a new vehicle from an automobile dealer. The residual buyout amount for the leased vehicle is ten thousand dollars ($10,000). The retailer would allow nine thousand dollars ($9,000) as a trade-in amount if the lessee owned the vehicle. Since the amount the automobile dealer is willing to allow as a trade-in is not greater than the residual buyout amount, there is no reduction in the taxable sales price.~~ ~~(3-31-22)~~

~~**b.** Example: A lessee trades in his leased automobile for a new vehicle. The residual amount is ten thousand dollars ($10,000). The automobile dealer allows twelve thousand dollars ($12,000) as a trade. In this case, the sales price of the new vehicle is reduced by the difference between the residual amount and the total trade-in, or two thousand dollars ($2,000).~~ ~~(3-31-22)~~

08. Examples. Available at Sales and Use Tax Examples. ( )

045. RESCINDED SALE, REFUNDS OF PURCHASE PRICE ~~(RULE 045)~~.
Sections 28-2-608, 63-3612, 63-3613, Idaho Code

01. A Rescinded Sale. A transaction in which the seller and buyer place each other in the same positions they were in prior to entering into any taxable transaction; and a transaction which meets the rules of the Uniform Commercial Code for revoking acceptance in whole or in part. ~~See Section 28-2-608, Idaho Code.~~ ~~(3-31-22)~~( )

02. Refund of Remitted Sales Tax. Where a seller has collected and remitted tax on the sale and has refunded it to the buyer on rescission, the Commission will refund or credit the seller accordingly. The burden of proving a rescission is on the person claiming the refund or credit on a rescinded sale. See ~~Rule~~ Section 117 ~~of these rules~~. ~~(3-31-22)~~( )

03. ~~Amount~~ Refund~~ed~~ Reduced. ~~If the seller reduces the amount refunded to the buyer on returned merchandise to recover depreciation, buyer usage or other costs, the amount of the reduction is considered a charge by the seller to the buyer for use of the tangible personal property and is taxable in the same manner as a rental. The amount of sales tax refunded to the buyer must be reduced accordingly.~~ The sales tax refunded to the buyer is reduced by the amount of sales tax due on the seller added charges to recover depreciation, buyer usage, or other costs on the customer return. ~~(3-31-22)~~( )

04. Restocking Charge. If a seller places a restocking charge on returned merchandise, the charge ~~is not~~ isn't taxable, and the sales tax refunded to the buyer in not reduced. ~~A restocking charge is a fee charged by a seller to cover his time and expense in returning goods to resale inventory when the buyer has not used the goods in a way that decreases their value.~~ ~~(3-31-22)~~( )

~~**05. Required to Buy Other Property**. If the customer, in order to retain the refund, is required to buy other property at a higher price, there is no refund and the amount credited on the subsequent purchase is treated as a trade-in. The seller must charge the customer sales tax on the difference between the amount credited and the sales price of the other property.~~ ~~(3-31-22)~~

05. Optional Warranty and Other Contracts. Payment of the purchase price to the buyer pursuant to an optional warranty or contract between the seller and the buyer doesn't constitute a rescission of the sale or refund. ( )

06. Documentation. ~~In order t~~To obtain refund credit, the seller ~~must~~ will keep adequate documents to support ~~his~~ their claim for refund or adjustment. ~~(3-31-22)~~( )

046. COATINGS ON TANGIBLE PERSONAL PROPERTY ~~(RULE 046)~~.
Sections 63-3612, 63-3613, 63-3622OO, Idaho Code

01. Coatings Generally. A coating is a substance covering the surface of tangible personal property usually intended to improve the durability or aesthetic appeal of the tangible personal property to which it is applied. There are a variety of coatings including paint, powder coating, chrome plating, spray-on bedliners, and anodized coatings. ~~Effective July 1, 2014, this rule applies to all types of coatings and it is intended that such coatings receive the same tax treatment.~~ This ~~rule~~ section ~~does not~~doesn't apply to coatings applied directly to real property ~~such as paint applied to the walls of a building~~. ~~(3-31-22)~~( )

02. Coatings are Tangible Personal Property. The materials applied to tangible personal property to produce a coating are tangible personal property both before and after the application process. ~~Therefore, u~~Unless an exemption applies, the sale of a coating is ~~a~~ taxable ~~sale~~. ~~(3-31-22)~~( )

03. Material Charges. Unless an exemption applies, the materials portion of a sale of a coating is taxable. If the seller is unable to measure the exact amount of material used, a reasonable method of estimation is acceptable. (3-31-22)

04. Nontaxable Labor Charges. In any of the following circumstances, the labor to apply a coating will be nontaxable labor: (3-31-22)

a. A previous coating is removed and replaced with a new coating, regardless of any differences in quality between the two (2) coatings. (3-31-22)

b. A coating is applied to used tangible personal property on top of an already existing coating. (3-31-22)

~~**c.** Example 1: A vendor applies a spray-on bedliner to an individual's truck bed. The truck bed surface is already coated with automotive paint. The materials charge is taxable, but the labor is not taxable. (3-31-22)~~

05. Taxable Labor Charges. In any of the following circumstances, the labor to apply a coating will be taxable labor: (3-31-22)

a. A coating is applied to new tangible personal property, regardless of whether the tangible personal property already has a coating except those exempted in Section 63-3622OO, Idaho Code. (3-31-22)

b. A coating is applied to new or used tangible personal property that has never been previously coated. (3-31-22)

06. Separate Statement. ~~For circumstances under which~~ When the labor portion of the transaction is exempt, both materials and labor are to be separately stated on the customer's billing statement. If there is no separate statement of materials and labor, the entire transaction is taxable. ~~(3-31-22)~~( )

07. Used Tangible Personal Property. For purposes of this ~~rule~~ section, tangible personal property is used if the tangible personal property has been previously put to the use for which it was intended. If a contractor hires someone to apply a coating to tangible personal property that the contractor intends to incorporate into real property, the tangible personal property has not been put to the use for which it was intended and is considered new tangible personal property. ~~(3-31-22)~~( )

~~**a.** Example 1: A contractor hires someone to apply a coating to metal ducting. The contractor intends to incorporate the metal ducts into a ventilation system in a building. Since the ducting has not yet been put to the use for which it was intended, it is not used tangible personal property and all labor and material charges will be taxable. (3-31-22)~~

~~**b.** Example 2: A person buys a piece of furniture for use in the home. The person uses the drawers for a year before hiring someone to apply a stain to the drawers. At that point, the drawers are used tangible personal property. If the drawers had a previous coating of any kind, the labor to apply the stain will be nontaxable. If the drawers had no previous coating, the labor to apply the stain will be taxable.~~ ~~(3-31-22)~~

~~**c.** Example 3: A company buys equipment from a supplier. Before the equipment is ever put to the use for which it was intended, the company takes the equipment to be coated by a different supplier. Since the equipment has not yet been put to the use for which it was intended, it is new tangible personal property. Regardless of whether the equipment already has a coating, both the materials and labor to apply the new coating are taxable.~~ ~~(3-31-22)~~

08. Tangible Personal Property Held for Resale. For new or used tangible personal property held by a seller as part of its inventory, any labor costs incurred to apply a coating to the tangible personal property and charged to the end consumer are taxable services agreed to be rendered as part of the sale of the tangible personal property. The labor charges are exempt only if the sale of the tangible personal property is exempt or if the labor is exempted by Section 63-3622OO, Idaho Code. ~~However, i~~If the seller pays a third party to apply a coating to tangible personal property in its inventory, the seller may claim a resale exemption on the transaction. (3-31-22)

~~**a.** Example 1: A dealership has a used truck in its inventory. A customer will purchase the truck on the condition that the dealership will apply a spray-on bedliner. The dealership hires another company to apply the spray-on bedliner and pays three hundred dollars ($300) for the job (split evenly between materials and labor). The dealership fills out a resale exemption certificate for the spray-on bedliner company. No tax should be charged on this transaction. The dealership then charges its customer five hundred dollars ($500) (split evenly between materials and labor) and separately states these charges from the sales price of the truck. The materials charge is a taxable sale of tangible personal property. The labor charge is a taxable service agreed to be rendered as part of the sale of the truck. The dealership charges tax on the entire five hundred dollars ($500).~~ ~~(3-31-22)~~

09. Exemptions. Like any sale of tangible personal property, if the customer provides a ~~valid~~ properly executed exemption certificate to the seller claiming an exemption that applies to the transaction, the seller has no obligation to collect sales tax on the transaction. The seller maintains a copy of the exemption certificate on file. ~~See Rule 128 of these rules for additional information.~~ ~~(3-31-22)~~( )

10. Examples. Available at Sales and Use Tax Examples. ( )

047. OUTFITTERS, GUIDES, AND LIKE OPERATIONS ~~(RULE 047)~~.
Sections 63-3612, 63-3613, Idaho Code

01. In General. Fees charged for services performed by outfitters, guides, dude ranches, hunting and fishing lodges, or camps are charges for the use of, or privilege of using, tangible personal property or other facilities for recreation. Fees charged by outfitters and like operations for providing outdoor recreational services are taxable. (3-31-22)

a. An outfitter is any person ~~who holds himself out to the public~~ that is for hire to conduct outdoor recreational activities, including: hunting animals or birds; float or power boating of rivers, lakes, and streams; fishing; hiking; skiing; hazardous desert or mountain excursions; and other recreational activities. ~~(3-31-22)~~( )

b. A guide is a person employed by an outfitter to furnish personal services for the conduct of outdoor recreational activities. (3-31-22)

02. Services Performed in More Than One State. When an outfitter's service to a client takes place in more than one (1) state, and the customer receives an invoice from the outfitter that separately displays the Idaho portion of the charges from those of the other states, only the Idaho portion is subject to Idaho sales tax. (3-31-22)

a. When an outfitter's service to a client takes place in more than one (1) state and the outfitter fails to separately state the Idaho portion of the charges from those of other states, sales tax ~~must~~ will be charged on the total amount. ~~(3-31-22)~~( )

03. Government Use Fee. Land and water use fees imposed on outfitters, such as the three percent (3%) fee paid to the U.S. Forest Service, are not taxable when separately stated on the customer's invoice. (3-31-22)

04. Prepaid Travel Expense. When an outfitter's invoice separately states prepaid travel expenses such as lodging, and the outfitter has paid sales tax~~, when applicable,~~ to vendors providing the travel services, the outfitter~~ will not~~ won't be~~ required~~ obligated to tax that portion of~~ his~~ their bill to the customer.~~ Example: An outfitter's bill to a client for a seven (7) day hunt and prepaid travel expenses should read:~~

~~SEVEN DAY HUNT~~	~~FEE~~	~~IDAHO SALES TAX~~
~~Airline Ticket (New York/Boise)~~	~~$500~~	~~$0.00 (none)~~
~~1 Night Lodging, Motel X Boise (Outfitter has paid tax to Motel X)~~	~~$50~~	~~$0.00 (none)~~
~~7 Day Hunt~~	~~$1,500~~	~~$75.00 (on 100%)~~

~~(3-31-22)~~( )

05. Lodging. If an outfitter provides overnight lodging for a client at a facility operated by the outfitter, charges for the lodging are taxable and hotel/motel taxes as provided by IDAPA 35.01.06,~~ "Hotel/Motel Room and Campground Sales Tax Administrative Rules," Rule~~ Section 011. ~~(3-31-22)~~( )

06. Equipment Rental. When an outfitter rents equipment such as ground sheets, sleeping bags, rain gear, boots and dry bags, to his client for use during the recreational activity, sales tax~~ must~~ will be charged on the equipment rental. ~~(3-31-22)~~( )

~~**07. Game Processing, Packing, and Taxidermy**. When an outfitter bills a client for game processing, packing, or taxidermy services, sales tax must be charged on the entire fee to the client. The outfitter will provide the vendor of the services with a properly completed resale certificate. (3-31-22)~~

0~~8~~7. Prepurchase~~d~~ Hunting and Fishing Licenses. When an outfitter purchases a hunting or fishing license for a client and separately states the fee on the billing to the client, no sales tax applies to the license fee. ~~(3-31-22)~~( )

0~~9~~8. Travel Agency Services. (3-31-22)

a. When outfitter services are purchased by a client through a travel agency and the outfitter bills the travel agency for the fee, the amount billed to the travel agency is taxable. In this case, the agency is acting as an agent for the client and the additional fee charged by the agency to the client~~ is not~~ isn't taxable. ~~(3-31-22)~~( )

b. When outfitter services are arranged for a client by a travel agency but the outfitter bills the client, the amount billed to the client is taxable. In this case, the agency is acting as the agent of the outfitter and the fee paid to the travel agency by the outfitter cannot be deducted from the measure of the taxable sale. Even if the outfitter separately states the travel agency fee on~~ his~~ their billing to the client,~~ he is required~~ they are obligated to charge tax on the total amount. ~~(3-31-22)~~( )

c. When a~~n~~ primary outfitter~~, Outfitter X,~~ books a client and hires a secondary outfitter~~, Outfitter Y,~~ to provide the services to the client, the primary ~~O~~outfitter~~ X~~ is~~ required~~ obligated to charge the client sales tax on the full fee.~~ Outfitter Y can obtain a resale certificate from Outfitter X otherwise, Outfitter Y has a requirement to charge sales tax on the services provided to Outfitter X.~~ ~~(3-31-22)~~( )

~~1~~09. Purchases by Outfitters and Like Operations. (3-31-22)

a. Outfitters~~ must~~ will pay tax when purchasing equipment and supplies for use in their business. ~~Examples include~~ Purchases such as boats, rafts, oars, motors, horses, tack, llamas, transportation equipment, camp gear, cooking gear, animal feed, brochures, and promotional give-away items. ~~(3-31-22)~~( )

b. When an outfitter maintains an inventory of gear, such as ground sheets, sleeping bags, boots, rain gear, and dry bags, which is exclusively held for rental to clients, the outfitter may purchase the gear without tax in the manner previously described. The outfitter may purchase gear without paying tax only if the gear is rented to clients as a separate line item on the invoice to the client and sales tax is charged to the client. If gear is provided to clients as a part of the outfitter package fee, the outfitter ~~must~~ will pay tax when purchasing the gear. ~~(3-31-22)~~( )

c. When an outfitter arranges travel accommodation~~s~~ for ~~his~~ their client and pays the vendors of lodging, and restaurant or catered meals, they ~~must~~will pay sales tax, as well as other applicable hotel/motel taxes, to the vendors. When an outfitter purchases food that he will prepare and furnish to clients, no sales tax applies if the outfitter provides a resale certificate. The outfitter ~~must~~ will then collect a tax from his client on the sale of the furnished food. Alternatively, an outfitter may buy food and pay tax on the purchase. Under this alternative, the outfitter will include the cost of the food in his nontaxable charges to his client. ~~(3-31-22)~~( )

d. When an outfitter purchases the services of a taxidermist ~~or meat processor~~ on behalf of his client, they should not pay tax to the vendor by providing the vendor with a properly completed resale certificate. The outfitter ~~must~~ will charge tax to his client on this fee. ~~(3-31-22)~~( )

11. Federal Preemption. The National Maritime Transportation Security Act of 2002, ~~enacted November 25, 2002, prohibits~~ forbids the states from imposing tax on any vessel or other water craft, or its passengers or crew if the vessel or water craft is operating on any navigable waters. The Tax Commission interprets this statute to mean that states are ~~prohibited~~ forbidden from taxing sales of rafting and jet boating trips if they occur on navigable waters. See 33 U.S.C. Section 5. If Congress repeals the preemption sales of rafting trips will become taxable on the effective date of the repeal. This interpretation is subject to judicial review and could change, depending on rulings from state or federal courts. ~~(3-31-22)~~( )

048. MANUFACTURED HOMES (MOBILE HOMES) AND MODULAR BUILDINGS ~~(RULE 048)~~.
Sections 39-4105, 39-4301, 63-3605J, 63-3606, 63-3612, 63-3613, 63-3621, Idaho Code

~~**01. New Manufactured Home**. When a manufactured home is sold at retail for the first time, it is taxable on fifty-five percent (55%) of the purchase price. The purchase price of a new manufactured home includes all component parts and any setup or transportation fees charged by the dealer. No trade-in allowance is permitted.~~
~~(3-31-22)~~

~~**02. Modular Building**. When a modular building is sold at retail, it is taxed on fifty-five percent (55%) of the purchase price including all component parts. No trade-in allowance is permitted.~~ ~~(3-31-22)~~

0~~3~~1. Used Manufactured Home. Only the sale of a new manufactured home is taxable. After the first sale at retail of a manufactured home, any subsequent retail sale of the unit is a sale of a used manufactured home. The sale of a used manufactured home is exempt from tax, whether or not the original sale was taxable and without regard to whether the sale is made for use within or without Idaho or whether sold by a dealer. A dealer who sells both new and used manufactured homes is to maintain adequate records to establish which sales are taxable and which are exempt for sales tax audit purposes. (3-31-22)

0~~4~~2. Sale of an Office Trailer. An office trailer is a structure which is built on a permanent chassis, is transportable in one (1) or more sections and is designed for use as an office. An office trailer ~~does not~~ doesn't qualify as a manufactured home, because it ~~is not~~ isn't designed for use as a dwelling, nor does it qualify as a modular building, because it ~~is not~~ isn't designed to be affixed to real property. When an office trailer is sold at retail, it is taxed on one hundred percent (100%) of the purchase price, including all furniture, fixtures, and appliances, whether the office trailer is new or used. ~~(3-31-22)~~( )

0~~5~~3. Component Parts. Component parts include items incorporated by the manufacturer which remain unchanged at the time of the original retail sale, such as sinks, cabinetry, closet doors, central heating and cooling, garbage disposals, water heaters, and carpeting. Refrigerators, ranges, draperies, and wood burning stoves placed in the unit by the manufacturer are also component parts. (3-31-22)

0~~6~~4. Non-component Parts. All fixtures, furniture, furnishings, appliances, and attachments not incorporated as a component part of a new modular building or manufactured home are taxable separately and

distinctly from the sales price of the modular building or manufactured home. Such items are to be separately stated on the sales invoice and tax will be assessed on the separately stated items on their full retail value. (3-31-22)

0~~7~~5. Repairs. Repairs to or renovations of used modular buildings or manufactured homes are repairs to real property, irrespective of whether the unit is affixed to real property or whether the unit is held for resale. Materials used to repair or renovate a used modular building or manufactured home are taxable at the time of purchase or use tax at the time of use. (3-31-22)

049. WARRANTIES AND SERVICE AGREEMENTS ~~(RULE 049)~~.
Sections 63-3612, 63-3613, Idaho Code

01. Warranties and Service Agreements. Warranties or service agreements may be furnished by the manufacturer or seller upon the sale, lease, or rental of tangible personal property by any of the following means: (3-31-22)

a. Including the price of the warranty or service agreement as part of the sales, lease, or rental price of the tangible personal property. (3-31-22)

b. Separately stating the price of the warranty or service agreement, but requiring the purchase of the warranty or service agreement as a condition of the sale, lease, or rental of tangible personal property. (3-31-22)

c. Allowing the buyer the option of purchasing a separately stated warranty or service agreement. (3-31-22)

02. Separate Optional Contract. Service agreements may also be offered as a separate optional contract on tangible personal property not owned or sold by the seller of the service agreement. (3-31-22)

03. Services Agreed to be Rendered. Services agreed to be rendered as a condition of a warranty or service agreement may be performed by the seller of the warranty or service agreement or by any dealer or repair facility that the seller may appoint to perform the repair or service. (3-31-22)

04. Non-Optional Warranty or Service Agreement. If the warranty or service agreement is ~~required~~ mandatory as a condition of the sale, lease, or rental of tangible personal property, the gross sales price is taxable whether or not the charge for the warranty or service agreement is separately stated from the sales price of the tangible personal property. ~~(3-31-22)~~( )

a. When parts are replaced by the seller of the warranty or service agreement, no tax is imposed on the purchase of the parts by the seller. The parts replaced are considered to have been taxed at the time the warranty or service agreement was sold. (3-31-22)

b. When a third-party dealer or repair facility performs the repair, the seller of the warranty or service agreement may provide the repairer with a resale certificate. ~~See Rule 128 of these rules.~~ ~~(3-31-22)~~( )

05. Optional Warranty or Service Agreement. If the warranty or service agreement is optional to the buyer, no sales tax is charged on the sale of the warranty or service agreement. A taxable transaction occurs when the seller of the warranty or service agreement performs the repair. (3-31-22)

a. If the seller of the warranty or service agreement performs the repair and purchases parts for the repair or uses parts from his inventory, he will pay sales or use tax upon the parts when they are applied by him. (3-31-22)

b. When a third-party dealer or repair facility performs the repair and bills the seller of the warranty or service agreement, the third-party dealer or repair facility will separately state and charge sales tax on the parts to the seller of the warranty or service agreement. (3-31-22)

c. The seller of the warranty or service agreement will pay sales or use tax on parts for the repairs, even if the buyer qualifies for any exemption under the Idaho Sales and Use Tax Act or rules. (3-31-22)

06. Parts in Addition to Warranty Fee. Regardless of any of the above, if the seller of the warranty or service agreement bills the purchaser for parts over and above the agreed upon warranty or service agreement fee, sales tax is charged to the ~~buyer~~ purchaser on the sales price of the parts. ~~(3-31-22)~~( )

07. Replacement Parts and Maintenance Supplies. As used in this rule, a warranty or service agreement applies to replacement parts and maintenance supplies that become a part of the tangible personal property that is being serviced. The sale of other tangible personal property, such as paper for a copy machine, ~~must~~ will be separately stated from any warranty or service agreement fee and sales tax charged to the buyer. ~~(3-31-22)~~( )

~~**08. Cross-Reference.**~~ ~~(3-31-22)~~

~~**a.** See Section 037.03 of these rules. Sales of Aircraft Repair Parts to Nonresidents.~~ ~~(3-31-22)~~

050. VETERINARIANS AND VETERINARY SUPPLIES ~~(RULE 050)~~.
Sections 63-3612, 63-3613, 63-3622, 63-3622D, 63-3622N, Idaho Code

01. In General. Fees charged by a veterinarian for professional services are not taxable. Tangible personal property used or consumed by a veterinarian or sold by a veterinarian is subject to sales and use tax~~able in accordance with the provisions of this rule~~. ~~(3-31-22)~~( )

02. Drugs and Other Supplies. Drugs and other supplies used by a veterinarian while treating animal patients are tangible personal property consumed by the veterinarian ~~in the course of~~ while providing services. If the veterinarian has not paid sales tax on ~~his~~ the purchase of ~~the~~ drugs or supplies, a use tax is owed by the veterinarian. ~~(3-31-22)~~( )

03. Services Provided to Exempt Customers. The veterinarian's use of drugs is taxable even ~~though he may be~~ when providing services to an exempt buyer such as a cattle rancher, dairyman, or other producer because the drugs are consumed by the veterinarian ~~and not by the producer~~. Since the production exemption is available only to the persons engaged in a production business, the veterinarian ~~does not~~ doesn't ~~benefit~~qualify ~~from~~for the exemption. ~~(3-31-22)~~( )

04. Retail Sales of Drugs and Supplies. The sale of drugs and veterinary supplies is a retail sale and veterinarians making such sales collect and remit sales tax on those sales. However, the sale of drugs and veterinary supplies to a person operating a stock, dairy, poultry, fish, fur, or other ranch for gain or profit is exempt ~~if documented by an exemption certificate as provided in Rule 128 of these rules~~. ~~(3-31-22)~~( )

05. Equipment and Supplies. Tangible personal property purchased or acquired by the veterinarian for the operation of this business including professional instruments and supplies, and office furnishings and equipment are taxable. ~~(3-31-22)~~( )

051. DISCOUNTS, COUPONS, REBATES, AND GIFT CERTIFICATES ~~(RULE 051)~~.
Sections 63-3612, 63-3613, Idaho Code

01. Adjustments That Apply After Tax Calculation. Tax ~~must~~ will be charged before deducting the following: ~~(3-31-22)~~( )

a. ~~Cash~~Prompt pay discounts. A ~~cash discount is a~~ discount offered by a retailer to a buyer as an inducement for prompt payment. Sales tax ~~must~~ will be computed on the full amount of the purchase price before the ~~cash~~ payment discount is subtracted. When an invoice or other billing document states that a discount will be allowed if payment is made before a certain date, then the discount is presumed to be a ~~cash~~ prompt pay discount. Discounts allowed on payments received after the stated date are presumed to be ~~cash~~ prompt pay discounts unless proven to the contrary by clear and convincing evidence. ~~(3-31-22)~~( )

b. Manufacturer's rebates. A manufacturer's rebate means a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer. ~~Except as provided by Subsection 051.02 of this rule, s~~Sales tax is computed on the full amount of the purchase price without regard to the

manufacturer's rebate. Any rebate received by the buyer from the manufacturer, distributor, or any person other than the retailer ~~will not~~ won't reduce the retail sales price taxable. Rebates paid by a retailer to the consumer will also be included in the taxable price if the retailer has been reimbursed by a third party, such as the manufacturer.
~~(3-31-22)~~( )

c. Manufacturer's discount. A manufacturer's discount is a price reduction offered by a manufacturer to a consumer for purchasing their product from a retailer who is then reimbursed that amount by that manufacturer. Sales tax is computed on the full amount of the purchase price before subtracting the coupon amount. This includes coupons issued by a manufacturer allowing the buyer to buy one item and get a second item free if the retailer will be reimbursed by the manufacturer. (3-31-22)

d. Food Stamps and WIC with a manufacture's discount. Purchases of food ~~with coupons issued~~ under the Federal Food Stamp Program or ~~food checks issued by~~ the Federal Special Supplemental Food Program for Women, Infants, and Children, (WIC), are exempt from sales or use tax. When a buyer uses manufacturer's discount coupons ~~along with food stamps or WIC checks~~ to purchase food items that qualify under these programs, the discount value of the coupon is taxable. ~~For example, a food stamp recipient purchases fifteen dollars ($15) worth of eligible food, surrenders manufacturer's discount coupons valued at two dollars ($2), and pays with thirteen dollars ($13) in food stamps. Sales tax is due on the two dollar ($2) discounted amount. The buyer may not use food stamps or WIC checks to pay sales tax due.~~
~~(3-31-22)~~( )

02. Adjustments That Apply Before Tax Calculation. Tax is charged after the deduction of the following: (3-31-22)

a. Trade discounts. A trade discount is a reduction from the posted or listed price offered by a retailer which ~~is not~~ isn't an inducement for prompt payment and which, when applied to the posted or listed price, establishes the true selling price to be paid by the buyer.
~~(3-31-22)~~( )

b. Retailer's rebates. A retailer's rebate is an amount of money or property paid by a retailer to a buyer which is conditioned upon the recipient making a purchase from the retailer. However, if a retailer is reimbursed by a manufacturer or other third party, the transaction ~~is not~~ isn't a retailer's rebate and the rebate amount is included in the taxable sales price. This would be the case when a buyer sends the rebate claim to the retailer, the retailer sends the rebate amount to the buyer and the manufacturer reimburses the retailer.
~~(3-31-22)~~( )

c. Retailer discount coupons. Retailer discount coupons are coupons issued by a retailer which entitle the holder to purchase the issuing retailer's products at less than the posted or listed retail price. (3-31-22)

d. Manufacturer's motor vehicle rebates. Effective July 1, 1990, a manufacturer's rebate offered to a buyer of a motor vehicle may be deducted from the purchase price of the vehicle before computing the tax if the rebate is used to reduce the retail sales price of the vehicle, or is used as a down payment on the purchase. The dealer's customer invoice shows the manufacturer rebate as a deduction to, or down payment on, the purchase price of the vehicle. Only manufacturer rebates offered on motor vehicles qualify for the exclusion from tax. Manufacturer rebates offered on trailers, off-highway equipment, and other property will be treated as discussed in Subsection 051.01.b. ~~of this rule~~.
~~(3-31-22)~~( )

03. Coupon Books. (3-31-22)

a. The sale of a coupon book that contains coupons offering discounts is deemed to be the sale of an intangible and is therefore not taxable. (3-31-22)

b. When the buyer of a coupon book redeems one (1) of the coupons, the discount allowed by the coupon ~~is not~~ isn't included in the taxable sales price if the retailer ~~is not~~ isn't reimbursed by a manufacturer or other third party.
~~(3-31-22)~~( )

04. Donated Goods. The donor is the consumer of donated goods and ~~must~~ will pay sales or use tax on the purchase price of the goods.
~~(3-31-22)~~( )

05. Gift Certificates. A gift certificate purchased from a vendor entitles a recipient to tangible personal

property or services when presented to the vendor. The purchase of a gift certificate ~~is not~~ isn't a taxable transaction. When the gift certificate is presented for redemption a sale is consummated. If the sale is a transfer of tangible personal property, the vendor collects sales tax at the time of sale. Tax applies to the purchase price of the tangible personal property, irrespective of any cash refunded on any difference between the face value of the gift certificate and the purchase price. If the sale is for services not taxable under the Sales Tax Act, the vendor ~~will not~~ won't collect sales tax. ~~(3-31-22)~~( )

06. Buy One Get One Free Discounts. If a retailer offers a "buy one get one free" discount in which the buyer purchases an item and receives another item of the same kind at no additional charge, the taxable sales price is the actual price paid after the discount is taken. Use tax ~~is not~~ isn't applicable to the item sold at no charge; however, if a manufacturer's discount allows the buyer to receive a free item for which the retailer will be reimbursed by the manufacturer the taxable sales price is the full amount before the discount is calculated. ~~(3-31-22)~~( )

07. Complimentary Gift with Purchase of an Item. (3-31-22)

a. If a retailer offers a complimentary item to a customer at the time of, and in connection with, the sale of tangible personal property, the gift is considered a part of the sale. The item given away is deemed to be purchased for resale by the retailer; however, if the sale is of an item exempt from tax and the sale of the gift item would have been taxable, the retailer is responsible for use tax on the gift. This subsection applies only to sales of tangible personal property. (3-31-22)

~~i. Example: A retailer advertises that every buyer of a refrigerator will receive a bike at no additional charge. Since both the bike and the refrigerator were purchased for resale, the retailer would not owe tax when it purchases either. When it sells the bike together with the refrigerator, the taxable amount is the sales price of the refrigerator.~~ ~~(3-31-22)~~

~~ii. Example: A retailer offers to give a free coffee mug to anyone who purchases fifteen (15) gallons of gas. Since the sale of the gasoline is exempt pursuant to Section 63-3622C, Idaho Code, the retailer would not charge any tax to the buyer. The retailer must pay use tax on its purchase price of the coffee mug.~~ ~~(3-31-22)~~

b. If a retailer offers to give away a promotional item to anyone with no mandatory purchase ~~required~~, then the retailer ~~did not~~ doesn't purchase the promotional item for resale. The retailer pays sales or use tax on its purchase price of the promotional items given away. ~~(3-31-22)~~( )

c. This ~~rule~~ subsection applies only to items given away by sellers of tangible personal property. ~~See Rule 028 of these rules for items given away by hotels and motels. See Rule 041 of these rules for items given away by restaurants.~~ ~~(3-31-22)~~( )

08. Examples. Available at Sales and Use Tax Examples. ( )

052. PURCHASE AND SALE OF TANGIBLE PERSONAL PROPERTY RELATING TO FUNERAL SERVICES ~~(RULE 052)~~.
Sections 54-1103, 63-3609, 63-3612, 63-3613, 63-3620, 63-3622, 63-3622U, Idaho Code

~~**01. In General**. The sale of tangible personal property relating to funeral services by a licensed funeral establishment is exempt from tax.~~ ~~(3-31-22)~~

~~**02. Sales by Licensed Funeral Directors**. The exemption applies only when, at the time of sale, the seller is a person holding a valid funeral director's license issued pursuant to the authority of Title 54, Chapter 11, Idaho Code. A sale made by any seller not so licensed is not exempt under this provision. For example, a casket sold by a licensed funeral director as part of a funeral service is exempt. The funeral director's purchase of the casket is a purchase for resale and, therefore, excluded from the tax. The purchase of a memorial marker is not an integral part of the funeral service. Accordingly, it is not included within the exemption for tangible personal property related to a funeral service. The purchase of a memorial marker, therefore, is a taxable transaction regardless of whether it is sold by a licensed funeral director or by another. Sales of tombstones and grave markers, which are embedded in the sod or set on foundations, are taxable. The retail selling price includes the charge for cutting, shaping, polishing and lettering.~~ ~~(3-31-22)~~

031. Purchases by Licensed Funeral ~~Directors~~ Establishments. The exemption ~~does not~~ doesn't include ~~the~~ sales to and purchases by funeral ~~directors~~ establishments of equipment and supplies used and consumed ~~by funeral directors in the course of~~ while providing funeral services. The purchase of a memorial marker isn't an integral part of the funeral service. The purchase of a memorial marker is a taxable transaction regardless of whether it is sold by a licensed funeral establishment. The funeral ~~director's~~ establishment's purchase of equipment and supplies used for embalming and preparing bodies for burial and all other tangible personal property used or consumed ~~by the funeral director~~ in the course of ~~his~~ the business operations to which title ~~does not~~ doesn't pass from the funeral ~~director~~ establishment is taxable. ~~(3-31-22)~~( )

042. Caskets, Vaults, and Burial Receptacles. Caskets, vaults, and burial receptacles are exempt when sold by a licensed funeral ~~director~~ establishment as a part of funeral services~~, even though they may be improvements to real property. The funeral director is not a person engaged in improving real property within the meaning of Section 63-3609(a), Idaho Code;~~ and~~, therefore, his~~ the purchase of these items ~~is not~~ isn't taxable. ~~However, t~~The construction of a building for use as a mausoleum is an improvement to real property and the sale or use of the materials for the construction of the mausoleum ~~creates a taxable incident and~~ is taxed in the same manner as other persons improving real property. ~~See Rule 012 of these rules.~~ ~~(3-31-22)~~( )

053. Use Tax. When a licensed funeral ~~directors~~ establishment purchases equipment and supplies from suppliers who ~~do not~~ don't collect and remit Idaho sales tax, the funeral ~~directors~~ establishment will ~~be required to~~ report and remit use tax on their taxable purchases. ~~(3-31-22)~~( )

064. Documenting Purchases for Resale. A ~~F~~funeral ~~directors~~ establishment purchasing tangible personal property for resale will be ~~required~~ mandatory to document the purchase for resale by providing their seller with a properly executed resale certificate. ~~See Rule 128 of these rules.~~ The purchase ~~by the funeral director~~ of ~~such~~ items ~~as~~ like caskets and ~~special~~ clothing is a purchase for resale, even though the sale of the same property by the funeral ~~director~~ establishment is exempt. ~~(3-31-22)~~( )

~~**07. Seller's Permit Required**. A funeral director is to apply for and maintain a valid seller's permit. The seller's permit number and sales tax returns are used to report use tax on those items which are subject to use tax. The funeral director should also report sales tax on the isolated retail sales of tangible personal property which may be made but which are not related to the providing of any funeral service.~~ ~~(3-31-22)~~

05. Examples. Available at Sales and Use Tax Examples. ( )

053. ~~FEES CHARGED FOR FAX SERVICES (RULE 053).~~(RESERVED)
~~Sections 63-3612, 63-3616, Idaho Code~~

~~**01. Sending a Fax**. A fee charged for sending a fax is not taxable.~~ ~~(3-31-22)~~

~~**02. Receiving a Fax**. A fee charged by a print shop, hotel, or other retailer to a person receiving and printing a fax is a fee charged for a photocopy and is a taxable sale of tangible personal property.~~ ~~(3-31-22)~~

054. PERSONS ENGAGED IN PRINTING ~~(RULE 054)~~.
Sections 63-3608, 63-3612, 63-3613, 63-3616, 63-3621, 63-3622, 63-3622D, Idaho Code

01. Private Printing Plants. Persons operating private printing plants in conjunction with their principal business pay sales or use tax on the purchase of equipment and supplies used to produce display signs, advertising brochures, and other materials for their own consumption. (3-31-22)

02. Printing upon Special Order. Persons primarily engaged in the printing of tangible personal property upon special order for a consideration may purchase equipment and supplies directly used to produce such property exempt from sales or use tax. (3-31-22)

a. The sale of typography, art work, photoengraving, electros, mats, stereotypes, hand or machine composition, lithographic plates or negatives, electrotypes, etc., to a person primarily engaged in the printing of tangible personal property for a consideration, and to be used directly by such person is deemed essentially sales of

service or exempt materials and not taxable. (3-31-22)

b. When purchasing goods ~~exempt from tax~~ for resale, the printer provides the seller with a properly ~~completed exemption~~ executed resale certificate. ~~See Rule 128 of these rules.~~ ~~(3-31-22)~~( )

03. Sales by Persons Engaged in Printing. Fees charged to ultimate consumers for printing of tangible personal property upon special order are taxable. (3-31-22)

a. Printing of tangible personal property includes imprinting and all processes or operations connected with the preparation of paper or paper-like substances, the reproduction thereon of characters or designs and the alteration or modification of such substances by finishing and binding. (3-31-22)

b. Upon such final sales, charges for materials, labor and production of fabrication or typography, author's alterations, art work, photo engravings, electros, mats, stereotypes, hand or machine composition, lithographic plates or negatives, electrotypes, etc., and binding and finishing services are included in the taxable sales price whether the various charges are separately stated or not. (3-31-22)

c. The following charges, if separately stated, are not included in the taxable sale price: (3-31-22)

i. Charges for postage as part of the printed item; or (3-31-22)

ii. Charges for addressing, stamping, sealing, inserting or wrapping in connection of a direct mail advertising in which items of tangible personal property and service are supplied. (3-31-22)

04. Advertising Inserts. As used in this rule, advertising inserts means printed advertising distributed concurrently with, but printed separately from, a newspaper, magazine, or other publication. (3-31-22)

a. The sale of advertising inserts by a printer or other supplier to an advertiser for use by the advertiser in the promotion of its business or products, and not for resale by the advertiser, is a taxable sale of tangible personal property. If, for any reason, the seller of the advertising inserts fails to collect sales tax on the sale of the advertising inserts to the advertiser, the advertiser is subject to use tax on its use of advertising inserts in Idaho. (3-31-22)

b. When an advertiser contracts for the distribution of advertising inserts to locations within this state, a taxable use by the advertiser occurs. The contracted distribution constitutes an exercise of right or power over the advertising inserts by the advertiser. The person performing the distribution services may be a publisher, printer, distributor of a newspaper, magazines, or other publication, or any other person performing distribution services. (3-31-22)

c. A contract between an advertiser and a publisher of a newspaper, magazine, or other publication, whereby the publisher sells advertising space in its publication ~~is not~~ isn't a taxable sale. ~~(3-31-22)~~( )

05. Labels and Other Printed Matter Sold to Manufacturers. Sales of labels or name plates, and the printing thereon, to manufacturers, producers, or wholesale merchants where the purpose of the buyer is to affix the label or name plate to his own product, or the container thereof ~~will not~~ won't be taxable. ~~(3-31-22)~~( )

a. Sale of package inserts, individual folding boxes and setup boxes, and the printing thereon to manufacturers, or producers, to accompany their own manufactured products, and to pass to the ultimate consumer upon final sales of the manufactured product contained or described therein, are presumed to be made for the purpose of resale. (3-31-22)

b. Sale of direction sheets, instruction books, or manuals to a manufacturer, producer, wholesale or retail merchant, to be supplied with his product at no separate charge, are not taxable. If a separate charge is made for such sheets, books, manuals, or pamphlets, the manufacturer, etc., is ~~required~~ mandatory to collect and remit sales tax. ~~(3-31-22)~~( )

055. PERSONS ENGAGED IN ADVERTISING ~~(RULE 055)~~.
Sections 63-3612, 63-3613, 63-3621, 63-3622, 63-3622S, Idaho Code

01. In General. Advertising agencies, television stations, radio stations, graphic artists, and other persons engaged in advertising may be engaged in either the rendering of professional services or the sale of tangible personal property or both. When such persons are engaged in the sale of tangible personal property, they are retailers and are ~~required~~ to collect and remit sales tax on the property sold. When such persons are engaged in the rendering of professional services, no sales tax applies to the service. Whether the sale is a sale of professional services or of tangible personal property is determined by the object of the transaction, i.e., is the object sought by the buyer the service per se or the tangible personal property produced by the service. Determining whether the sale is a sale of professional services or of tangible personal property is a question of fact is determined in view of all the facts and circumstances of each transaction. ~~(3-31-22)~~( )

~~**02. Advertising Agency as Agent of Client or as Non-Agent**. An agent is one who represents another, called the principal, in dealings with third persons. Advertising agencies may act as agents on behalf of their clients in dealing with third persons or they may act on their own behalf. To the extent advertising agencies act as agents of their clients in acquiring tangible personal property, they are neither buyers of the property with respect to the supplier nor sellers of the property with respect to their principals. To the extent advertising agencies act on their own behalf in acquiring tangible personal property they are buyers of the property with respect to the supplier. Generally, they are sellers of any of the property so acquired which they deliver to, or cause to be delivered to, their clients or to third parties for the benefit of their client. They are also sellers of any of the property which they retain but title to which they transfer to their client. (3-31-22)~~

~~**a.** Items acquired from outside sources. All acquisitions by advertising agencies of tangible personal property are purchases by the agencies on their own behalf for resale or use unless the agency clearly establishes with respect to any acquisition that is acting as agent for its client. (3-31-22)~~

~~**b.** To establish that an acquisition was made as agent for its client the agency is required to: (3-31-22)~~

~~i. Clearly disclose to the supplier the name of the client for whom the agency is acting as agent; (3-31-22)~~

~~ii. Obtain, prior to the acquisition, and retain written evidence of agent status with the clients; and (3-31-22)~~

~~iii. Clearly state on the billing to its client that it is acting as agent for its client and that tax has been paid to the supplier or use tax has been accrued by the agency on behalf of the client. (3-31-22)~~

~~**c.** The agency fee billed to the client, whether or not separately stated, is not taxable. The agency, in its records, is required to retain evidence of the payment of the tax. The agency may make no use of the property for its own account, such as charging the item to the account of more than one client. An advertising agency purchasing tangible personal property as an agent on behalf of its client may not issue a resale certificate, as provided by Rule 128 of these rules, to the supplier. It will be presumed that an advertising agency who issues a resale certificate to its supplier is purchasing the tangible personal property on its own behalf for resale and is not acting as an agent for its client. (3-31-22)~~

~~**03. Items Prepared by Agency**. Advertising agencies are sellers of all items of tangible personal property produced, printed, or fabricated by their own employees. Advertising agencies are not agents of their clients with respect to the acquisition of materials incorporated into items of tangible personal property prepared by their employees. (3-31-22)~~

042. Media Advertising and Advertisements. Media advertising is the use of mass media as a means by which to reach a wide audience, viewers, listeners, or readers, with an advertisement to promote a product, service, issue, or personality. Mass media is defined as radio, television, cable television, newspapers, periodicals, trade journals, or other such media which ~~is capable of reaching~~ can reach a mass audience with an identical message. The object sought by the buyer purchasing media advertising is the intangible professional service of the seller. The sale of media advertising is a sale of professional service and is a nontaxable transaction. The transfer of tangible personal property is inconsequential to the services rendered. ~~(3-31-22)~~( )

a. Radio and television advertisement. Sales tax ~~does not~~ doesn't apply to the amount charged to produce or create advertisements which are to be broadcast by a radio or television station. It makes no difference whether the producer or creator sends the advertisement directly to the broadcast facility or to the advertiser, who in turn distributes the commercial to a broadcast facility. ~~(3-31-22)~~( )

b. Radio and television dubs. Charges for dubs which are produced from a master copy of a radio or television commercial or broadcast are not taxable so long as they are for distribution to other broadcasting facilities. Sales tax will apply to the sale of radio or television commercial or broadcast dubs which are not for distribution to a broadcast facility and are sold to a customer for another use. The measure of the tax will be the total price charged for the copies. (3-31-22)

c. Magazine, newspaper, and periodical advertisements. Sales tax ~~does not~~ doesn't apply to the amount charged to a customer to produce camera ready artwork, veloxs, and other forms of artwork which are to be reproduced in and distributed as part of a mass media publication~~. Examples of such media publications are~~, such as magazines, newspapers, trade journals, and periodicals. ~~(3-31-22)~~( )

d. Print media advertisement copies. Sales tax will apply to charges for reprints of a print media advertisement sold to a customer. The measure of the tax will be the price charged for the reprints. (3-31-22)

0~~5~~3. Sales of Non-Media Advertising. Non-media advertising is any form of advertising which ~~does not~~ doesn't use the mass media in reaching the targeted audience~~. Examples of~~, such ~~advertising are~~ as posters, brochures, pamphlets, handbills, displays, business forms, stationery, business cards, key chains, cups and glasses, pens, pencils, t-shirts, and other similar items. The object sought by the buyer is the tangible personal property. If the advertising agency is the agent of its client, the sale is between the supplier of the tangible personal property and the client and is taxable based on the price charged by the supplier to the client. If the advertising agency ~~is NOT~~ isn't the agent of its client, then the purchase from the supplier is for resale. The sale from the agency to its client is a retail sale and is subject to tax based upon the entire amount charged to the customer by the advertising agency, including separately stated fees for: ~~(3-31-22)~~( )

a. Artwork produced by the advertising agency, including all materials, design fees, and labor to develop and produce the artwork, lettering, and designs used in the finished non-media advertising. (3-31-22)

b. Artwork, lettering, and designs purchased from a graphic artist. (3-31-22)

c. Photographs, negatives, and other similar items whether purchased from a commercial photographer or produced in-house by the advertising agency. (3-31-22)

d. Professional modeling fees. (3-31-22)

e. Printing charges, whether printed by the advertising agency or a commercial printer, including any markup or service charge. (3-31-22)

f. All other charges to the customer for services agreed to be rendered by the advertising agency as part of the sale of non-media advertising. (3-31-22)

0~~6~~4. Sale of Custom Made Audio-Visual Films and Audio Recordings. A custom made audio-visual film or audio recording is a film or recording whose intended purpose ~~is not~~ isn't for media advertising. ~~Examples~~ Items of custom audio recordings include those to be used with a slide show presentation, designed to be played alone for information purposes or in-store advertising, or other similar purposes. ~~Examples~~ Items of custom films are safety films, training films, filmed newsletters, in-store audio-visual advertising, and other audio-visual films not sold for media advertising. ~~(3-31-22)~~( )

a. The object of the buyer is to obtain the tangible personal property. The fact that the charge for the tangible personal property, the film or recording, is principally derived from labor or creativity of the maker of the property ~~does not~~ doesn't transform the sale of the tangible personal property into a sale of services. ~~(3-31-22)~~( )

b. If the advertising agency is the agent of its client, the sale is between the supplier of the tangible

personal property and the client and is taxable based on the price charged by the supplier to the client. If the advertising agency ~~is not~~ isn't the agent of its client, then the purchase from the supplier is for resale. The sale from the agency to its client is a retail sale and is taxable based upon all charges for copy writing, directing, producing, photographing, acting, vocal artists, recording, editing, mixing, and other similar charges to produce a finished film or audio recording. ~~(3-31-22)~~( )

0~~7~~5. **Sales of Design Services**. Determining whether design fees are taxable will depend on the object of the transaction. A fee charged to a customer for creation and design of a logo, product or business trademark, letterhead, or similar item which ~~does not~~ doesn't involve the transfer of tangible personal property beyond that which is ~~required~~ to convey the design to the customer, is a sale of services and ~~is not~~ isn't taxable. When design fees are services agreed to be rendered as a part of the sale of tangible personal property, sales tax will apply to the design fee. Tax ~~does not~~ doesn't apply to such fees when an agency acts as an agent. See Subsection 055.07.e. ~~of this rule~~. ~~(3-31-22)~~( )

~~a. Example 1: A graphic artist is commissioned to design a business logo for a client. The artist completes the design and delivers it to the client. The transaction is a service transaction. The transfer of the tangible personal property is inconsequential to the services rendered. No sales tax is due on the transaction. (3-31-22)~~

~~b. NOTE: Subsections 055.07.b. through 055.07.d. of this rule assume no agent relationship. Example 2: An advertising agency is commissioned by a client to design a trademark for its business and provide stationery with the trademark printed on it. On the charges billed to the client, the design fee is separately stated from the charges for printing the stationery and the paper stock. The advertising agency charges sales tax on the entire amount charged. The object of the transaction is to obtain tangible personal property, the stationery. The services agreed to be rendered, the design, are inconsequential to the transaction. (3-31-22)~~

~~c. Example 3: An advertising agency is commissioned by a client to design a logo for its business and provide stationery printed with the logo. The advertising agency commissions a graphic artist to design the logo. The sale of the design by the graphic artist to the advertising agency is a sale of services and is not taxable. The object sought by the advertising agency is the services of the graphic artist. The advertising agency then prints the stationery and bills the client. As the object sought by the client is tangible personal property, the stationery, the advertising agency charges the client sales tax on the entire fee billed, including the design fee. (3-31-22)~~

~~d. Example 4: An agency is commissioned to design, produce, and provide one thousand (1,000) copies of a corporation's annual report. As the object sought by the client is the tangible personal property, annual reports, the entire fee to the client is taxable. (3-31-22)~~

~~e. NOTE: This subsection assumes an agent relationship. Example 5: An advertising agency is commissioned to design an annual report. As agent for its client, the agency orders one thousand (1,000) copies from a printer. The charge for the design is a nontaxable service. The charge for the printed reports is taxable. (3-31-22)~~

~~08. Purchases by Radio and Television Broadcasters. Section 63-3622S, Idaho Code, provides an exemption from tax for purchases of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs by businesses primarily devoted to such production and broadcasting. (3-31-22)~~

~~a. When broadcasters purchase tangible personal property to be directly used and consumed in the production of television or radio advertising, no sales tax applies if they give their vendors a properly executed exemption certificate. See Rule 128 of these rules. (3-31-22)~~

~~b. When a radio or television broadcaster produces custom films or audio recordings that will not be broadcast, the exemption provided by Section 63-3622S, Idaho Code, does not apply. Purchases of tangible personal property will be taxed as provided by Subsection 055.06.b. of this rule. (3-31-22)~~

0~~9~~6. **Purchases by Advertising Agencies, Graphic Artists, and Similar Operations**. Persons engaged in advertising and graphic artists may provide both nontaxable services and taxable sales of tangible personal property. (3-31-22)

a. When providing nontaxable services, including producing media advertising and providing design services which ~~do not~~ don't involve the sale of tangible personal property, the agency/artist pays tax on purchases of: Art supplies, such as poster board, paper products, inks, letters, and paints; amount charged by others to produce veloxs, negatives, lithographic plates, electrotype, and other such items; photographic work; prerecorded music and sounds; and props, costumes, and backdrops. ~~(3-31-22)~~( )

b. When engaged in the retail sale of tangible personal property, such as the sale of non-media advertising items, custom films, custom audio recordings, or printed goods, the producer/agency/artist, when purchasing tangible personal property to be incorporated into the product for resale, may provide vendors with a properly executed resale certificate. See ~~Rule~~ Section 128 ~~of these rules~~. Items considered to be directly incorporated into the product for resale include purchases of: Art supplies such as poster board, paper products, inks, letters, and paints; amounts charged by others to produce veloxs, negatives, lithographic plates, electrotype, and other such items; photographic works; prerecorded sounds and music; and printing charges. ~~(3-31-22)~~( )

~~**c.** Purchases from photographers. The sale of photographic prints, photostats, negatives, film, and other articles of tangible personal property are taxable sales. See Rule 056 of these rules. Photographs, film, negatives, photostats, and other tangible personal property purchased by an advertising agency which are to be incorporated into media advertising are taxable. The total selling price on which sales tax will be charged is the amount charged by the photographer for shooting, developing, processing, and printing the photograph, film, negative, etc. Separately stated charges for travel expenses incurred by the photographer while under contract to an advertising agency for such items as travel, food, and lodging which are reimbursed by the advertising agency are not taxable. Photographs, film, negatives, photostats, and other tangible personal property purchased for resale, see, Subsection 055.09.b. of this rule.~~ ~~(3-31-22)~~

~~**d**~~**c.** Rental of recording or production studios and equipment. Sales tax will apply to the rental of a recording studio, audio-visual production studio, recording equipment, and audio-visual production equipment, when the owner of the equipment ~~does not~~ doesn't furnish the personnel to operate the equipment and relinquishes total operational control of the equipment. A taxable rental also occurs if the studio personnel merely render incidental services such as maintenance and repair. No sales tax will apply to the rental of a recording studio, audio-visual production studio, recording equipment, and audio-visual production equipment when the personnel to operate the equipment is furnished with the rental of the equipment. ~~(3-31-22)~~( )

~~**e.** Accounting. Persons engaged in the rendering of advertising or graphic artist services may elect to follow any consistent procedure in purchasing art supplies and other tangible personal property from their vendors which are to be incorporated into services or tangible personal property sold to their customers. The artist/agency may wish to purchase all art and graphics supplies without tax from their vendors by issuing a resale certificate. In this case the artist/agency will keep a record of all supplies withdrawn from inventory for use in nontaxable advertising services and pay use tax on these supplies. If the bulk or majority of the artist/agency's work is nontaxable media advertising or design services, the artist/agency may wish to pay tax on all of their purchases, keep a record of all retail sales, and regularly take a credit against the sales and use tax due for tax originally paid upon purchases. If the artist/agency engages in major jobs, they may want to use separate accounting procedures and make purchases of supplies for inventory without tax by issuing a resale certificate. Purchases for a specific job would be made with or without tax dependent upon the taxable nature of the sale to the client. In all cases, art and graphic supplies are those items which are directly incorporated into the artwork or advertisement, such as paint, ink, colored pencils and markers, lettering, poster board, and other such consumable items. Items on which tax is required to be paid include rulers, triangles, t-squares, paint brushes, razor or artist knife blades, any other artist tool, office supplies and equipment, props, sets, wardrobes, costumes, and other equipment.~~ ~~(3-31-22)~~

~~**10. Cross-References.**~~ ~~(3-31-22)~~

~~**a.** Newspapers and periodicals. See Rules 033 and 079 of these rules.~~ ~~(3-31-22)~~

~~**b.** Signs. See Rule 036 of these rules.~~ ~~(3-31-22)~~

~~**c.** Persons engaged in printing. See Rule 054 of these rules.~~ ~~(3-31-22)~~

~~**d.** Motion picture films. See Rule 087 of these rules.~~ ~~(3-31-22)~~

~~c.~~ ~~Resale certificates purchases for resale. See Rule 128 of these rules.~~ ~~(3-31-22)~~

07. **Examples**. Available at Sales and Use Tax Examples. ( )

056. PHOTOGRAPHERS AND PHOTOFINISHERS ~~(RULE 056)~~.
Sections 63-3616, 63-3622, 63-3622D, Idaho Code

01. Sales of Photographs. (3-31-22)

a. Printed photographs are tangible personal property. Sales of printed photographs are taxable. (3-31-22)

b. Digital photographs are tangible personal property when sold and delivered to the buyer on storage media. Sales of digital photographs are taxable when sold and delivered to the buyer on storage media. (3-31-22)

c. Digital photographs ~~are not~~ aren't tangible personal property when delivered electronically~~. Sales of digital photographs are not~~ or by cloud storage and aren't taxable ~~when sold and delivered to the buyer electronically~~. ~~(3-31-22)~~( )

02. **Sales of Videos**. Sales of videos are taxable, as tangible personal property, when sold and delivered to the buyer on storage media. They are also taxable if delivered electronically if the buyer has a permanent right of use. ( )

0~~2~~3. Sales by Photographers and Photofinishers. (3-31-22)

a. When photographers or photofinishers sell films, frames, cameras, printed photographs, digital photographs delivered on storage media, photostats, blueprints, etc., they are making a sale of a completed article of tangible personal property and they are ~~required~~ to collect the tax on the total sales price unless an exemption applies. ~~(3-31-22)~~( )

b. When photographers or photofinishers render service, such as retouching, tinting, or coloring of print photographs belonging to others, they are performing taxable processing services and are to collect the tax from their customers unless an exemption applies. When similar services are performed on a digital photograph, the service is only taxable if the final product is delivered on storage media. (3-31-22)

c. Photographers may charge a sitting fee which may be separately stated from any charges for the photographs. When charged along with a sale of printed photographs or digital photographs delivered on storage media, sitting fees are charges for producing or fabricating tangible personal property and are taxable. See ~~Rule~~ Section 029 ~~of these rules~~. ~~(3-31-22)~~( )

0~~3~~4. Sales to Photographers and Photofinishers. (3-31-22)

a. Photographers and photofinishers may qualify for the production exemption if they are primarily in the business of selling print photographs or digital photographs delivered on storage media. Photographers and photofinishers primarily in the business of selling digital photographs that are delivered electronically cannot qualify for the production exemption. (3-31-22)

b. The production process begins when the image is captured. Therefore, photographers pay sales or use tax on purchases of props, backdrops and other items used prior to the start of production of the photograph. Equipment and supplies including cameras, lights, lenses, film, paper, fix, developer, and enlargers used to produce photographs are used during the production process and are exempt if the photographer otherwise qualifies for the production exemption ~~in Section 63-3622D, Idaho Code~~. ~~(3-31-22)~~( )

c. Photofinishers may purchase equipment and supplies exempt from sales or use tax as long as the equipment and supplies are directly used to produce print photographs or photographs delivered on storage media, which they will sell and they otherwise qualify for the production exemption ~~provided by Section 63-3622D, Idaho~~

~~Code~~. ~~(3-31-22)~~( )

0~~4~~5. Definitions. For purposes of this rule, the following terms have the following definition: (3-31-22)

a. Storage media. Storage media include, but are not limited to, optical media discs such as CDs or DVDs, hard drives, diskettes, magnetic tape data storage, solid state drives, flash drives, and other semiconductor memory chips used for nonvolatile storage of information readable by a computer. (3-31-22)

b. Cloud Storage. A method of storing digital data on remote servers, accessible via the internet, rather than on a physical device or local network, managed by a third-party provider. ( )

057. DRY CLEANERS, LAUNDRIES, LAUNDROMATS, AND LINEN SUPPLIERS ~~(RULE 057)~~.
Sections 63-3612, 63-3622, 63-3622X, Idaho Code

01. Dry Cleaners and Laundries. Dry cleaners perform a service and are not ~~required~~ to collect tax from their customers. Dry cleaners pay sales or use tax on purchases of cleaning supplies, hangers, plastic bags and other supplies used in the performance of this service. The purchases of dry-to-dry transfer systems by dry cleaners are exempt from sales and use tax. This exemption applies only to the purchase of entire systems and ~~does not~~ doesn't apply to purchases of repair parts for such systems. ~~(3-31-22)~~( )

02. Linen Suppliers. (3-31-22)

a. Linen supply firms or laundries which furnish such items as sheets, pillowslips, towels, uniforms, diapers, etc., collect and remit sales tax based on the rental charge. The sales tax will also apply to the rental of shop towels, floor mats for building entrances, dust mops, room deodorizers and any other tangible personal property rented or leased for building maintenance or service. ~~The entire price charged for such rentals is taxable unless a reasonable charge for cleaning is separately stated. If the allocation between rental and cleaning fees is unreasonable, the Commission may deem the entire fee, or any portion thereof, to be taxable.~~ ~~(3-31-22)~~( )

b. Items acquired by these firms which are purchased for resale, rental or lease in the ordinary course of business, may be purchased exempt from sales tax if a properly executed resale certificate is provided to the seller~~, in accordance with Rule 128 of these rules~~. ~~(3-31-22)~~( )

03. Laundromats. (3-31-22)

a. Receipts from coin-operated washers and dryers are not taxable. Sales of cleaning supplies such as soap or bleach through coin operated vending machines~~,~~ are taxable ~~as provided by Rule 058 of these rules~~. ~~(3-31-22)~~( )

b. Persons engaged in the laundromat business ~~must~~ will pay sales or use tax when purchasing washers, dryers, and other tangible personal property for the operation of their business. ~~(3-31-22)~~( )

058. SALES THROUGH VENDING MACHINES ~~(RULE 058)~~.
Sections 63-3612, 63-3613, 63-3622, 63-3622L, 63-3622X, 63-3623B, Idaho Code

01. In General. The sale of tangible personal property through a vending machine is a taxable transaction. The term vending machine means any mechanical device which, without the assistance of a human cashier, dispenses tangible personal property to a buyer who deposits cash or cash equivalent in the device. Video games and other coin operated amusement devices are not vending machines. Fees paid for the use of coin operated amusement devices are not subject to sales tax ~~pursuant to Section 63-3623B, Idaho Code~~. See ~~Rule~~ Section 109 ~~of these rules~~. ~~(3-31-22)~~( )

~~**02. Amount Taxable**. Pursuant to Section 63-3613, Idaho Code, sales of items through a vending machine for amounts from twelve cents ($0.12) through one dollar ($1) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for more than one dollar ($1) are taxable on the retail sales price. Sales of items for a price of eleven cents ($0.11) or less are exempt from tax pursuant to Section 63-3622L, Idaho Code.~~ ~~(3-31-22)~~

0~~3~~2. Requirement to Obtain a Seller's Permit. Vendors who sell tangible personal property through a vending machine are to obtain a seller's permit. Only one (1) seller's permit is ~~required~~ needed; however, each vending machine operated by the vendor is to conspicuously display the vendor's name, address, and seller's permit number. When multiple vending machines are placed in a single location, the owner's name, address, and seller's permit number need be displayed only once. ~~(3-31-22)~~( )

~~**04. Calculation of Tax**. The following examples show how vending machine operators calculate the amount of sales tax due:~~ ~~(3-31-22)~~

~~**a.** Example 1: Corporation A's business activity consists only of sales through vending machines in various locations in the state of Idaho. All of the items sold in the vending machines are sold for a unit price of twelve cents ($0.12) or more but none are sold for a price greater than one dollar ($1). During the month of July, Corporation A's total sales from the vending machine sales were ten thousand dollars ($10,000). Corporation A purchased the items sold during that one (1) month period for eight thousand dollars ($8,000). The company made no nontaxable or exempt sales. Corporation A should file a sales and use tax return for the month of July, computing and reporting its taxable sales as follows. Numbers correspond to line numbers on the return.~~

~~Line 1.~~	~~Total sales~~		~~$9,360~~
~~Line 2.~~	~~Less nontaxable sales~~		~~$0~~
~~Line 3.~~	~~Net taxable sales~~		~~$9,360~~
	~~Line 1 computed as follows:~~		
	~~8,000 x 117%~~	~~=~~	~~$9,360~~

~~(3-31-22)~~

~~**b.** Example 2: During the month of July, Corporation B had total Idaho sales in the amount of ten thousand dollars ($10,000). In addition to sales through vending machines, the corporation made over-the-counter sales, all of which were taxable, in the amount of two thousand dollars ($2,000). The remaining eight thousand dollars ($8,000) constituted sales through vending machines, of which one thousand dollars ($1,000) was for items with a unit retail price of over one dollar ($1). The other seven thousand dollars ($7,000) were sales of items through vending machines with a unit retail price of fifty cents ($0.50) each. The items sold during the month for fifty cents ($0.50) each were purchased by Corporation B for five thousand dollars ($5,000).~~

~~The amount to report as taxable sales is:~~

~~Taxable Sales = $2,000 (over the counter items) + $5,850 ($5,000 of purchases of items selling for $.50 x 117%) + ($1,000 ÷ (1 + tax rate expressed as a decimal) (items sold through vending machines for more than one dollar ($1)). Assuming a 6% tax rate this amount would be $1,000 divided by 1.06 or $943.40.~~

~~Note that if a vendor sells some items for more than one dollar ($1) the sales tax is included in the total sales. This amount is divided by one (1) plus the current tax rate expressed as a decimal, to determine the sales before sales tax.~~ ~~(3-31-22)~~

~~**05. Cross-References**.~~ ~~(3-31-22)~~

~~**a.** Amusement devices, see Rule 109 of these rules.~~ ~~(3-31-22)~~

~~**b.** Money operated dispensing equipment, see Rule 095 of these rules.~~ ~~(3-31-22)~~

~~**c.** Sales of newspapers through vending machines, see Rule 033 of these rules.~~ ~~(3-31-22)~~

03. Examples. Available at Sales and Use Tax Examples. ( )

059. SALES BY FLORISTS ~~(RULE 059)~~.
Sections 63-3612, 63-3613, Idaho Code

01. Sales. Florists are retailers engaged in the business of selling tangible personal property and are to collect and remit sales tax from the buyer. (3-31-22)

a. Charges for creating, processing, fabricating, or setting up floral or plant arrangements are taxable, even if separately stated. (3-31-22)

b. Separately stated delivery charges, relating only to the transportation of the product after the sale, are not taxable. (3-31-22)

02. Rentals. The lease ~~of~~ or rental of potted plants, palms, artificial wreaths and flowers, or other tangible personal property is taxable. ~~(3-31-22)~~( )

03. Sales. Sales tax ~~is required to~~ will be collected on orders taken by an Idaho florist or nursery that will be fulfilled by another florist or nursery, the delivery will take place. The florist or nursery fulfilling this order ~~is not required~~ won't collect sales tax. ~~(3-31-22)~~( )

a. Telephone, wire, and handling charges in connection with these sales are part of the taxable sales price. (3-31-22)

04. Street Vendors. The above applies to individuals and street vendors as well as florists who maintain a regular place of business. (3-31-22)

060. FEDERAL EXCISE TAXES AND RETAILERS TAXES ~~(RULE 060)~~.
Sections 63-3612, 63-3613, 63-3621, Idaho Code

01. General Rule. The taxable sales price includes any mandatory amount ~~required~~ to be paid by a retailer or ~~his~~ their customer as a federal importer's or manufacturer's excise tax. ~~(3-31-22)~~( )

a. ~~Example.~~ Federal taxes on products such as~~:~~ tobacco products, distilled spirits, beer, cheese, mixed flour, processed and renovated butter are included in the taxable sales price. ~~(3-31-22)~~( )

b. ~~Example.~~ Any federal tax payable to the wholesaler, importer, manufacturer or other producers, such as taxes on gasoline, automobiles, tires, sporting goods, or other tangible personal property when sold by the wholesaler, importer, manufacturer, or other producer are included in the taxable sales price. ~~(3-31-22)~~( )

02. Excluded Federal Taxes. Federal taxes imposed directly on retail sales, such as those imposed by Section 4051, Internal Revenue Code, are excluded from the taxable sales price. (3-31-22)

061. TRANSPORTATION, FREIGHT, AND HANDLING CHARGES ~~(RULE 061)~~.
Sections 63-3612, 63-3613, Idaho Code

01. In General. Whether or not transportation and handling charges are separately stated, the sales price includes any charges made for delivery of goods to the seller. Charges for transportation and handling of goods to the consumer ~~are not~~ aren't included as a part of the sales price regardless of when title passes. ~~(3-31-22)~~( )

02. Charges Not Separately Stated. Regardless of other provisions of this rule, transportation and handling charges which are not separately stated are included in the taxable sales price. (3-31-22)

03. ~~Example 1:~~ Charges for Delivery to the Seller. ~~A~~ When a customer orders goods from a retailer~~.~~ and ~~T~~the goods are shipped to a ~~catalog~~ store where the customer picks them up~~. A~~, the charge ~~to the customer~~ for delivery to the store is ~~a charge for delivery to the seller and is~~ included in the taxable sales price. ~~(3-31-22)~~( )

04. ~~Example 2:~~ Freight-In ~~Taxable~~ Charges. ~~A~~ If a seller of ~~construction equipment~~ goods orders an ~~part~~ item for a customer~~.~~ and ~~T~~the seller separately states ~~on the invoice charges~~ fees for freight-in to the seller and

freight-out to the consumer on the invoice. The charges fees for freight-in are part of the taxable sales price. The charges fees for freight-out are not aren't taxable. (3-31-22)( )

05. Example 3: Delivery by the Retailer. A If a consumer orders building materials goods from a retailer. and The retailer delivers the goods to the buyer by means of the retailer's delivery van vehicle. If The retailer separately states the charge for transportation and handling of the building materials. Since goods, the charge is for delivery and handling to the consumer, it is not subject to sales isn't taxable. (3-31-22)( )

06. Example 4: Use of Transportation Charges as a Means of Avoiding Sales Tax. If a Sseller offers to give away merchandise worth approximately twenty dollars ($20) if what the buyer pays for shipping of nineteen dollars and ninety five cents ($19.95). The entire price of nineteen dollars and ninety five cents ($19.95) shipping is taxable. (3-31-22)( )

07. Demurrage. Demurrage is a charges by a transportation company to its customer for detaining a ship, freight car, or truck beyond the time allowed for loading or unloading. Demurrage charges are notaren't taxable if when right, power, and control of the ship, freight car, or truck remains with the transportation company. Demurrage is defined as a charge by a transportation company to its customer for detaining a ship, freight car, or truck beyond the time allowed for loading or unloading. (3-31-22)( )

062. REPAIRS SALE OF PARTS AND MATERIAL TO TANGIBLE PERSONAL PROPERTY (RULE 062).

Section 63-3612, 63-3613, 63-3622, Idaho Code

01. In General. Repairs normally require both material and labor. Persons engaged in the business of repairing, renovating, or altering tangible personal property owned by others are required mandatory to collect sales tax upon the parts or and materials required used in the repair or renovation of the property. (3-31-22)( )

02. Separate Statement of Parts or and Materials. The sales price of parts or and materials need to be separately stated. and sSales tax is charged on these parts or and materials. Separately stated repair labor is not isn't taxable. If parts and materials are not stated separately stated from the repair labor, the total amount for parts, materials, and repair labor is taxable. (3-31-22)( )

03. Repairs Covered by Insurance Benefits. Repairs, the costs of which are covered by insurance benefits, are treated the same as otherwise described in this rule. Sales tax is to be collected on the parts and materials. Separately stated repair labor is not isn't taxable. (3-31-22)( )

04. Incidental Materials. In some instances, because of the When a small amount of materials is used in to perform a repair job, the value of the materials may be insignificant to the entire repair cost. For example, incidental amounts of material are sometimes used in repairs made to tires, clothing, watches, and shoes. If materials such as buttons, thread, watch parts, tire valve cores and stems are incidental to the repair they will be taxed when purchased by the repairman. Other examples of materials which are incidental to repairs are touch up paint and soldering materials used in car repairs. Materials are incidental if they have a value which is insignificant and for which a reasonable retail sales price cannot be readily determined. Materials are incidental if the value is insignificant, doesn't have a reasonable retail price, and are not listed separately on the customer invoice. The repair shop pays tax when purchasing incidental materials. (3-31-22)( )

05. Shop Supplies. Dealer/repair shops should not charge sales tax on shop supplies that are consumed during the repair, such as spray bottles, buffer pads, towels, masking tape, solvents, sandpaper, and other items that have no specific identifiable value billed to the customer and which do not become a part of the item being repaired. TheseShop supplies are taxable when purchased by the dealer/repair shop and should not be aren't included as part of the taxable amount billed to the customer. Shop supplies include spray bottles, buffer pads, towels, masking tape, solvents, sandpaper, and other items that have no specific identifiable value billed to the customer, and don't become part of the item being repaired. (3-31-22)( )

06. Repairs Versus Fabrications. Repairs and renovations to tangible personal property must are not to be confused with fabrications of tangible personal property. Fabricated tangible personal property is subject to sales tax on the entire price whether the parts, and materials, and labor are stated separately stated or not. See Rules

~~011 and~~ Section 029 ~~of these rules~~. ~~(3-31-22)~~( )

~~**07. Parts for Resale**. When a repair shop buys parts that will be resold to its customers or an auto dealer buys parts to install in a car which is being reconditioned for sale, they should not pay tax to the supplier if they provide the documents required by Rule 128 of these rules.~~ ~~(3-31-22)~~

07. Examples. Available at Sales and Use Tax Examples. ( )

063. BAD DEBTS AND REPOSSESSIONS ~~(RULE 063)~~.
Sections 63-3612, 63-3613, 63-3619, 63-3626, Idaho Code

01. In General. Sales tax is collected on an accrual basis. The tax is owed to the state at the time of sale, regardless of when the payment is made by the customer. (3-31-22)

02. Rules for Unsecured Credit Sales. The following rules apply to unsecured credit sales: (3-31-22)

a. When a seller cannot collect accounts receivable arising from an unsecured credit sale of tangible personal property subject to sales tax, the seller can make an adjustment on his sales tax return or apply for a refund of taxes according to this rule. ~~(3-31-22)~~( )

b. The adjustment or refund may be claimed on the sales tax return for the month in which the bad debt adjustment is made on the books and records of the taxpayer. The tax for which the credit or refund is sought is included in the amount financed and charged off as a bad debt for income tax purposes. (3-31-22)

c. A written claim for the refund may also be filed with the Tax Commission within three (3) years from the time the tax was paid to the Tax Commission. The Tax Commission will review all such refund claims. See ~~Rule~~ Section 117 ~~of these rules, Refund Claims~~. ~~(3-31-22)~~( )

03. Rules for Secured Credit Sales. The following rules apply to secured credit sales: (3-31-22)

a. If the collateral ~~is not~~ isn't repossessed, the seller may treat a bad debt the same as an unsecured credit sale. ~~(3-31-22)~~( )

b. If the collateral is repossessed and not seasonably resold at a public or private sale, its retention is considered to satisfy the debt and no bad debt adjustment is allowed. "Seasonable resold" means the property was resold within six (6) months of repossession. ~~(3-31-22)~~( )

c. If the collateral is repossessed and seasonably resold at public or private sale, then the seller is entitled to a bad debt adjustment. ~~However, before calculating t~~The amount of tax that may be credited or refunded~~, the taxpayer must reduce~~ is the amount ~~claimed~~ calculated as worthless ~~by~~ less the amount realized from the sale of the collateral. "Amount realized" is the amount for which the goods are sold at a public or private sale. ~~(3-31-22)~~( )

d. If merchandise is repossessed and is subsequently resold at retail, sales tax is computed on the sales price and collected and remitted the same as on other retail sales. (3-31-22)

04. Application to Taxpayers. The following rules apply to taxpayers who remit sales tax on an accrual basis but report income tax on a cash basis or ~~are not required~~ aren't obligated to file income tax returns. ~~(3-31-22)~~( )

a. It is mandatory that ~~R~~retailers ~~are required to~~ remit sales tax on an accrual basis, even though their accounting records and income tax returns may be prepared on the cash basis of accounting. ~~(3-31-22)~~( )

b. For taxpayers who keep their records and file income tax returns on a cash basis, a worthless account cannot be written off as a bad debt because it ~~has not~~ hasn't been recognized as income in the taxpayer's books. These retailers may still claim a bad debt for sales tax purposes. The claim should be made ~~at the same time and in the same way discussed in Subsections 063.02 and 063.03 of this rule~~ when the debt adjustment is made on the

books and records, even though the bad debt ~~does not~~ doesn't appear on the retailer's income tax return.
~~(3-31-22)~~( )

~~e. For taxpayers who are not required to file income tax returns, the claim should be made the same way discussed in Subsections 063.02 and 063.03 of this rule.~~ ~~(3-31-22)~~

~~d~~c. ~~As~~Since these claims cannot be verified against the income tax returns of these taxpayers, sufficient evidence ~~must~~ should be attached to ~~the sales tax return to~~ prove that the account has become worthless, that the tax was remitted by the retailer, and that the retailer ~~did not~~ didn't receive payment of the tax from the buyer.
~~(3-31-22)~~( )

05. Amount of Credit Allowed. The amount of credit that can be claimed is the amount of sales tax that is uncollectible. If both nontaxable and taxable items are financed, credit may be taken only for that portion of the bad debt which represents unpaid sales tax. (3-31-22)

a. ~~Example~~Calculation of Bad Debt Attributed to Sales Tax: Assume the tax rate is six percent (6%). A retailer sells a thirty thousand dollar ($30,000) forklift for thirty-one thousand eight hundred dollars ($31,800) including sales tax. The buyer pays a five thousand dollar ($5,000) down payment and finances the balance. The buyer later defaults and the retailer repossesses the forklift and sells it at a public auction for six thousand dollars ($6,000). At the time of repossession the buyer owes seventeen thousand five hundred forty-five dollars ($17,545) including the financed sales tax. After the sale the amount that the retailer writes off is eleven thousand five hundred forty-five dollars ($11,545). The sales tax bad debt write off is six hundred fifty-three dollars ($653).

Total taxable sale		$30,000
6% sales tax		$1,800
Total sale		$31,800
Down payment		($5,000)
Total financed		$26,800
Payment to principal after sale		($9,255)
Amount realized at public sale		($6,000)
Total bad debt		$11,545
Sales tax portion of bad debt $11,545 - (11,545 / 1.06)	=	$653

~~(3-31-22)~~( )

b. ~~Example~~Calculation of Bad Debt Attributable to Sales Tax with Taxable and Nontaxable Charges: Assume the tax rate is six percent (6%). A car dealer makes a taxable sale of an automobile for fourteen thousand nine hundred dollars ($14,900) along with an extended warranty for five hundred dollars ($500), a documentation fee of one hundred dollars ($100), a title fee of eight dollars ($8) and credit insurance for one hundred dollars ($100). The customer pays one thousand dollars ($1,000) cash and trades in a car worth ten thousand dollars ($10,000) which is pledged as security for an earlier outstanding loan of six thousand dollars ($6,000). The customer, therefore, has to borrow enough to pay off the old loan on the trade-in. The customer defaults on the new ten thousand nine hundred eight dollar ($10,908) loan after paying five hundred dollars ($500) towards the principal. The customer damages the automobile in an accident leaving the collateral worthless. The car dealer may take an adjustment for only that portion of the bad debt representing the taxable percentage of the total sales price of the car. Only five thousand dollars ($5,000) of the total fifteen thousand nine hundred eight dollar ($15,908) cost was taxable.

Sales price of vehicle	$14,900
Documentation fee	$100

Extended warranty	$500
Credit insurance	$100
Title fee	$8
Trade-in	($10,000)
Sales tax	$300
Subtotal	$5,908
Down payment	($1,000)
Invoice total	$4,908
Amount financed	$10,908
Payment to principal after sale	($500)
Amount of bad debt	$10,408
Amount of down payment used to pay sales tax: ($300 / $5,908) = 5.08% .0508 x $1,000 = $50.80	
Amount of sales tax financed: $300 - $50.80 = $249.20	
Percentage of loan representing sales tax: $249.20 / $10,908 = 2.28%	
Sales tax paid by payments to principal: $500 x 0228 = $11.40	
Amount of bad debt write-off: $249.20 - $11.40 = $237.80	

~~(3-31-22)~~( )

06. Bad Debt Collected ~~at a~~ Later ~~Date~~. If a bad debt account is collected later, the ~~retailer must pay tax on the~~ amount collected is taxable. ~~(3-31-22)~~( )

07. To Claim Credit for a Bad Debt. Credit for bad debts for sales tax purposes may be claimed by the retailer that made the original sale and paid the sales tax to the state. Financial institutions or other third parties who are the assignees of the retailer may claim a bad debt for sales tax on property for which they provided financing, if the amount financed includes the sales tax remitted on the sale of the property. The person ~~claiming the credit must be the person~~ who ultimately bears the loss if the buyer of the property defaults on the obligation to repay can make the claim. ~~(3-31-22)~~( )

~~**08. Cross-Reference**. Rescinded Sale. See Rule 045 of these rules.~~ ~~(3-31-22)~~

064. (RESERVED)

065. TIRE~~S~~ BALANCING, STUDDING, AND SIPING ~~(RULE 065)~~.
Sections 63-3612, 63-3613, ~~63-3619,~~ Idaho Code

01. Services Subject to Sales Tax. Sales tax applies to the amount charged for services agreed to be performed in conjunction with the sale of a tire. ~~Examples of such taxable services are~~ This includes balancing, studding, siping, ~~or~~ and similar charges. ~~Sales tax will apply to t~~The total amount charged for the tire, the services, and the materials used to perform the services is taxable. ~~(3-31-22)~~( )

02. Services Not Subject to Sales Tax. The person performing nontaxable services owes tax on the value of the materials they use. ~~(3-31-22)~~( )

a. ~~Sales tax does not apply to t~~The amount charged for balancing, studding, or siping a tire owned by the customer is a nontaxable service. ~~(3-31-22)~~( )

b. ~~Sales tax does not apply to a~~A separately stated fee to mount or install a tire is nontaxable whether sold ~~new~~ to or owned by the customer. ~~(3-31-22)~~( )

~~**c.** The person performing the nontaxable service pays use tax on the value of the materials used in performing the service. (3-31-22)~~

03. Materials Used in Performing a Service. Studs, wheel weights, valve stems, cores, patches, and similar items are materials that may be used to perform both a taxable and nontaxable service. The seller may elect to use any consistent method in determining the value and the amount of materials used in performing taxable and nontaxable services. The method selected should represent a reasonable allocation based on their use. ~~(3-31-22)~~( )

~~**a.** The allocation of materials may be determined using a percentage basis. Example: The seller determined through some reasonable basis that sixty percent (60%) of the studs purchased for resale are used in tires that are purchased from him. The remaining forty percent (40%) are used in tires owned by customers and brought in for studding. Use tax will apply to the forty percent (40%) used in studding customer owned tires. As sales tax applies to the entire fee charged for studding a tire sold to a customer, the remaining sixty percent (60%) of the studs will not be subject to use tax, but are included in the amount subject to sales tax imposed on the buyer. (3-31-22)~~

~~**b.** The allocation may be determined based on the value of the material used in performing both taxable and nontaxable services. (3-31-22)~~

~~**c.** The allocation may be determined using any other method that will allow a reasonable allocation of materials used in both a taxable and nontaxable service. (3-31-22)~~

~~**04. Cross-Reference**. Repairs. See Rule 062 of these rules. (3-31-22)~~

04. Examples. Available at Sales and Use Tax Examples. ( )

066. ~~CONTRACTOR'S USE OF TANGIBLE PERSONAL PROPERTY (RULE 066).~~(RESERVED)
~~Sections 63-3609(a), 63-3620, 63-3621, Idaho Code~~

~~**01. Use**. The term use includes the exercise of any right or power over tangible personal property in the performance of a contract, regardless of whether title to the tangible personal property is vested in the contractor or the tangible personal property is leased. (3-31-22)~~

~~**02. Contractors Use of Tangible Personal Property**. If title to the tangible personal property is vested in an entity not entitled to the production exemption, use tax will apply to the contractor. For contractors improving real property, see Rule 012 of these rules. (3-31-22)~~

~~**03. Exception**. The Sales Tax Act provides only one (1) exception. If title to the tangible personal property is vested in a person entitled to the production exemption (see Rule 079 of these rules), the contractor's use of the property will also be exempt. (3-31-22)~~

067. REAL PROPERTY ~~(RULE 067)~~.
Sections 55-308, 63-3609, 63-3612, 63-3616, Idaho Code

01. Real Property. ~~For the purpose of these rules, t~~The term real property means land and improvements or fixtures to the land. ~~(3-31-22)~~( )

02. Improvements or Fixtures. Improvements or fixtures to real property include: (3-31-22)

a. Property which is physically attached to the land or other improvements affixed to the land in such a manner that it ~~may not~~ can't be removed without materially damaging the real property or is of such a nature that it would normally be expected to be sold together with the land. ~~(3-31-22)~~( )

b. Property which increases the market value of the land or increases the ability of the possessor of the land to use it more productively. (3-31-22)

c. Property which increases the market value or productivity on a relatively permanent basis. (3-31-22)

03. Three Factor Test. A three (3) factor test may be applied to determine whether an article has become a fixture to real property. The three (3) tests to be applied are: (3-31-22)

a. Annexation to the realty, either actual or constructive. (3-31-22)

b. ~~Adoption~~Adaptation or application of the article to the use or purpose to which that part of the realty ~~to which it is connected~~ is suitable. ~~(3-31-22)~~( )

c. Intention to make the article a permanent addition to the realty. (3-31-22)

~~**04**~~i. ~~**Example 1**: The original builder or owner of an apartment building installs draperies. The draperies meet the three (3) factor test of a fixture to realty. First, they are constructively annexed to the realty when attached to the drapery rod. Although the draperies are not affixed to the realty, they comprise a necessary, integral, or working part of the object to which they are attached. Second, they appropriately adapt to the purpose of the realty to which they are connected. Window coverings are necessary in order to maintain occupancy of the apartment. The third and controlling factor in this example is the intention with which the installation was made. The i~~Intention is determined from the surrounding circumstances at the time of installation. It ~~is not~~ isn't the undisclosed purpose of the annexor, but rather the intention implied and manifested by ~~his~~ their act. ~~The builders intended that the drapes would remain as long as they served their purpose.~~ ~~(3-31-22)~~( )

~~**05.** **Example 2**: The three (3) factor test would not be met in Subsection 067.03 of this rule, if the drapes were installed by a tenant of an apartment leased for a term with no agreement as to ownership. The tenant would be expected to remove or sell the drapes to an incoming tenant, and his intention would be the controlling factor. The draperies would not be considered as fixtures to the real property.~~ ~~(3-31-22)~~

~~**06.** **Personal Property Incidental to the Sale of Real Property**. This rule does not affect the provisions of Section 63-3609(b), Idaho Code.~~ ~~(3-31-22)~~

0~~7~~4. ~~Store~~Trade Fixtures. ~~Store~~A trade fixture~~s are~~is an item~~s that are~~ affixed to a building ~~and used by retailers in the conduct of their~~ which a business uses for the purpose of trade, manufacture, ornament, or domestic use. A trade fixture is tangible personal property which is easily removed without causing significant damage to the fixture or premises. ~~The term~~ "~~store~~Trade fixtures" include~~s~~ display cases, trophy cases, clothing racks, shelving, modular displays, kiosks, wall cases, register stands, and check-out counters. If ~~store~~ trade fixtures only benefit the particular business occupying a building, they are not adapted to the use of the real estate and are therefore personal property. A ~~store~~ trade fixture will only be deemed to be a real property improvement if: ~~(3-31-22)~~( )

a. It is affixed to the real estate and its removal would cause significant structural damage to the building itself; or (3-31-22)

b. It is affixed to the real estate and is of benefit to the land or building regardless of the particular business conducted on the premises. (3-31-22)

~~**08.** **Fiber Optic and Communication Cable**. Fiber optic and communication cable installed in a building is presumed to be a real property improvement.~~ ~~(3-31-22)~~

05. Examples. Available at Sales and Use Tax Examples. ( )

068. COLLECTION OF TAX ~~(RULE 068)~~.
Sections 63-3619, 63-3621, 63-3633, Idaho Code

~~**01. In General**. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by Rule 105 of these rules.~~ ~~(3-31-22)~~

~~**02. Sales Tax to Be Collected by Retailer**. Sales tax is to be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged.~~ ~~(3-31-22)~~

~~**03. Computation of Tax**. The retailer will compute the tax upon the total sale to a buyer at a given time and not upon each individual item purchased.~~ ~~(3-31-22)~~

~~**04. Tax Rate**. For the purpose of these rules, the terms "tax rate" or "rate" means the current tax rate as defined in Sections 63-3619 and 63-3621, Idaho Code. References to the tax rate in these rules may not reflect the current rate in effect.~~ ~~(3-31-22)~~

0~~5~~1. **Bracket System for Six Percent Tax Rate**. ~~Beginning October 1, 2006, t~~The sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. ~~(3-31-22)~~( )

a. Multiply six cents ($0.06) for every whole dollar included in the sale, and (3-31-22)

b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale		Tax
0.00 - 0.03	-	.00
0.04 - 0.20	-	.01
0.21 - 0.37	-	.02
0.38 - 0.53	-	.03
0.54 - 0.70	-	.04
0.71 - 0.87	-	.05
0.88 - 0.99	-	.06

However, sales to a total amount of eleven cents ($0.11) or less are exempt from tax. (3-31-22)

0~~6~~2. **Tax to Be Separately Displayed**. The amount of tax collected by the retailer is to be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. ~~The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax.~~ ~~(3-31-22)~~( )

0~~7~~3. **Reimbursement of Tax From the Buyer to the Seller**. If the seller ~~does not~~ doesn't collect the sales tax at the time of the sale and ~~it is~~ it's later determined that sales tax should have been collected, the seller can then collect the sales tax from the buyer if the delinquent tax has been paid by the seller. The legal incidence of the tax ~~is intended to~~ falls upon the buyer~~, Section 63-3619, Idaho Code~~. ~~(3-31-22)~~( )

~~**a.** Example: The Commission determines that certain nontaxed sales by a seller are subject to sales~~

~~tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer.~~ ~~(3-31-22)~~

~~b~~a. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (3-31-22)

~~c~~b. The seller ~~is not~~ isn't entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. ~~(3-31-22)~~( )

~~d~~c. The receivable established by the seller seeking reimbursement from the buyer ~~is not~~ isn't subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. ~~(3-31-22)~~( )

04. Examples. Available at Sales and Use Tax Examples. ( )

069. INTERSTATE COMMERCE ~~(RULE 069)~~.
Sections 63-3612, 63-3613, 63-3621, Idaho Code

When tangible personal property is located within the state of Idaho at the time of sale and is delivered within the state of Idaho, such sale is taxable irrespective of where the parties to the contract of sale are located and where the contract was made or accepted or the funds paid. ~~Example: A Washington-based interstate trucking firm hires an~~ When an individual or company comes into Idaho and purchases tangible personal property or has repairs ~~facility to install parts on a disabled truck. The trucking firm takes delivery of the repaired vehicle in Idaho. The sale of the parts is~~ made to tangible personal property, it is an Idaho sale subject to Idaho sales tax. ~~(3-31-22)~~( )

070. SELLER'S PERMITS ~~(RULE 070)~~.
Section 63-3620, 63-3620A, 63-3631, 63-3622YY, Idaho Code

0~~7~~1. **Seller's Permit and Sales Tax Permit**. The terms "seller's permit" and "sales tax permit" may be used interchangeably. Both refer to the permit issued to a person desiring to engage in business in Idaho as a retailer. ~~(3-31-22)~~( )

0~~1~~2. **~~Requirements for~~ Obtaining a Permit~~s~~**. ~~All retailers, wholesalers and other persons required to collect sales tax must obtain a permit from the Commission before engaging in business. No fee is required for the initial sales tax permit.~~ ~~(3-31-22)~~

~~a.~~ ~~Every wholesaler, retailer or other person required to collect sales tax must apply~~Application for a permit ~~on the form prescribed by the Commission. Application forms may be obtained by contacting any Commission office. The application for a~~ and instructions are available on the Idaho State Tax Commission website. It is essential for the permit ~~must~~ applicant to list each place of business operated by the same person, firm, or corporation. ~~The permit must be posted in a conspicuous place at each location for which it is issued. A separate permit number must be obtained for each business name~~ A separate permit number will be obtained for each different business name. ~~(3-31-22)~~( )

~~b. Example 1: Corporation A operates the businesses named B, C, and D. Three (3) permit numbers are required, regardless of how many locations operate using the business names B, C, and D.~~ ~~(3-31-22)~~

~~c. Example 2: Corporation E operates three locations, using the business name F. Only one permit number is needed, since all locations have the same business name.~~ ~~(3-31-22)~~

~~02. Out-of-State Seller. An out-of-state seller desiring to conduct business as a seller within Idaho needs a seller's permit. This requirement also applies to any salesmen user's agents who solicit orders for nonresident sellers.~~ ~~(3-31-22)~~

03. Sales in Leased Premises. When any established business leases a portion of its shelves, counters or floor space to other persons selling tangible personal property to consumers, the sales from such leased ~~department~~ space may be included in the tax return of the lessor. When the lessee conducts the leased ~~department~~ space in the

same manner as a separate business and keeps separate business records, it is mandatory for the lessee ~~must apply for~~ to obtain a sales tax permit. ~~(3-31-22)~~( )

04. Cancellation of a Sales Tax Permit~~s~~. It is the responsibility of a permit holder to notify the Tax Commission ~~in writing~~ immediately upon any change in ownership of the permitted business or upon complete or partial termination of the permit holder's business. Complete or partial termination of a permit holder's business includes the lease of part or all ~~of~~ the business or business location to another party who will be responsible for remitting the sales tax. This notice ~~must~~ will include the following information~~.~~: ~~(3-31-22)~~( )

a. This notice ~~must~~ will include the date of closure, date of sale or date of lease. If the permit holder ~~does not~~ doesn't continue to operate a business under that permit number, the notice ~~must~~ will state that the permit should be canceled. The permit holder ~~must~~ will return the permit or send a ~~written~~ statement, by mail, email, phone call, or Taxpayer Access Point (TAP), that the permit has been destroyed. If the permit holder has sold or leased his business, the notice ~~must~~ will state the last day of operation and the name of the new owner or lessee. ~~(3-31-22)~~( )

b. If this information ~~is not furnished~~ isn't provided to the Tax Commission and the new owner or lessee continues operation of the business on the previous owner's or operator's permit, ~~without filing for and obtaining a new permit,~~ the original permit holder may be ~~held responsible~~ liable for all tax ~~liability~~ incurred during the period that the new owner or lessee operated a business under the previous owner's permit. ~~(3-31-22)~~( )

05. Suspension of Sales Tax Permits. ~~The~~ A permit holder ~~must~~ will notify the Tax Commission ~~in writing~~ of the anticipated discontinuation of a business due to seasonal operation or for any other reason. This notice ~~must~~ will contain the date of closure and anticipated date of reopening. Upon receipt of this information, returns will be suspended during the period of closure. ~~(3-31-22)~~( )

~~**06. Requirements of Holding a Seller's Permit**. A seller's permit may be held only by persons actively engaged in making retail sales subject to Idaho sales tax. Any person holding a permit who fails to meet this requirement must surrender the permit to the Commission for cancellation. If a permit is held by a person who has reported no sales for a period of twelve (12) consecutive months, the Commission may revoke the permit and require the holder to return the permit to the Commission or provide a sworn statement that the permit has been destroyed by the holder.~~ ~~(3-31-22)~~

~~**08. Temporary Seller's Permits**. The Commission may issue temporary seller's permits valid for the period of time shown on the face of the permit. No temporary seller's permit will be issued for a period of time greater than ninety (90) days.~~ ~~(3-31-22)~~

06. Examples. Available at Sales and Use Tax Rules Examples. ( )

071. (RESERVED)

072. APPLICATION AND PAYMENT OF USE TAX ~~(RULE 072)~~.
Sections 63-3615, 63-3621, 63-3622, Idaho Code

01. Imposition of Use Tax. Use tax is imposed upon the privilege of using, storing, or otherwise consuming tangible personal property within Idaho. The tax is imposed on the value of the tangible personal property. ~~A recent sales price is presumptive evidence of the value. In the absence of a recent sales price, the value of the property subject to use tax will be the fair market value at the time of first use in Idaho. Special rules apply to transient equipment which is present in Idaho ninety (90) days or less in any consecutive twelve (12) months. See Section 63-3621A, Idaho Code.~~ ~~(3-31-22)~~( )

02. Use. ~~Use is the exercise of right or power over tangible personal property incident to either ownership of the property or the performance of a contract.~~ The term "use" ~~does not~~ doesn't include use of tangible personal property incidental to the performance of a contract if the owner of the tangible personal property is a business primarily engaged in producing tangible personal property for resale and the property is exempt ~~under Section 63-3622D,~~ in Idaho Code. See ~~Rules~~ Sections 012~~,~~ ~~077,~~ and 079 ~~of these rules~~. ~~(3-31-22)~~( )

~~**03. Storage**. Storage is any keeping or retention of tangible personal property in this state, except as inventory for the purpose of sale in the regular course of business or for subsequent use solely outside Idaho.~~ ~~(3-31-22)~~

~~**04. Specifically Excluded from the Definition of Both Use and Storage Are**:~~ ~~(3-31-22)~~

~~**a.** Retention or use of property for subsequent transportation outside the state; or~~ ~~(3-31-22)~~

~~**b.** Processing, fabricating, repairing, or manufacturing property for subsequent transportation and use or resale solely outside the state.~~ ~~(3-31-22)~~

0~~5~~3. **Receipt Showing Idaho Sales Tax Paid**. If the property is purchased from a~~n Idaho~~ retailer and Idaho sales tax is charged by and ~~remitted~~ paid to the retailer, then no use tax will apply ~~to the property~~. A purchase order issued by the buyer advising the retailer to charge or include the Idaho sales tax ~~is not~~ isn't sufficient evidence that the tax has been paid. The retailer's receipt provided to the buyer that displays separate statement of the tax relieves the buyer of the use tax requirements. ~~(3-31-22)~~( )

0~~6~~4. **Out-of-State Purchases**. If the property is purchased outside the state or from a retailer not subject to the Tax Commission's jurisdiction and is subsequently used, stored, or otherwise consumed in this state, then a use tax will apply. The buyer reports and ~~remits the~~ pays use tax directly to the ~~state~~ Tax Commission by filing a use tax return on the forms prescribed by the Tax Commission. ~~(3-31-22)~~( )

0~~7~~5. **Taxes Paid to Another State**. The taxpayer may offset from the use taxes payable to Idaho any amount of general sales or use taxes paid to another state on the purchase or use of the same property if paid by the same taxpayer. A credit ~~may not~~ can't be claimed for taxes erroneously paid to another state if no taxable sale or use under the laws of that state occurred. In determining whether a tax is due in the state where paid, the Tax Commission will be bound by the laws, rules, and administrative rulings of the state to which tax is paid. ~~(3-31-22)~~( )

a. If the amount of tax levied by the state to which it is paid is less than the amount of the Idaho tax due, then the balance ~~must~~ will be paid as Idaho tax. ~~(3-31-22)~~( )

b. If the amount of tax levied by the state to which it is paid is equal to or greater than the Idaho tax, then there will be no taxes due to Idaho ~~in~~ regarding ~~to~~ the same transaction or subsequent use of the property. ~~(3-31-22)~~( )

c. If the taxes paid to the other state are greater than the Idaho tax, the amount of offset available is limited to the amount of Idaho tax due on the same transaction or use of the property. (3-31-22)

0~~8~~6. **Use Undeterminable at Time of Purchase**. In some cases, a buyer may be unable to determine at the time of purchase whether or not the property purchased ~~by him~~ will be used for a taxable or nontaxable purpose. ~~For example, a~~A buyer engaged in both ~~a~~ retailing and contracting business ~~may~~ might not know whether an item will be sold at retail or withdrawn from inventory and used ~~in the course of~~ while performing a contract to improve real property. In these circumstances the buyer may purchase the goods ~~without paying~~ tax exempt if the buyer presents ~~the~~ documentation ~~required by Rule~~ in Section 128 ~~of these rules~~. The buyer will maintain adequate accounting control to ~~i~~ensure that use tax is properly accrued on all taxable property. ~~(3-31-22)~~( )

~~**09. Removal from This State**. If property is held in this state solely for the purpose of subsequent transport and use outside Idaho or is to be processed, fabricated, attached to, or incorporated into property that is to be transported outside and used or sold outside the state, a use tax will not apply.~~ ~~(3-31-22)~~

~~1~~07. **Tangible Personal Property Removed From Inventory**. A retailer or wholesaler may purchase tangible personal property for resale without paying sales tax. ~~The tangible personal property then becomes part of inventory.~~ The retailer or wholesaler may use inventory in displaying or demonstrating the inventory for purposes of selling the inventory in the normal course of business. If the retailer or wholesaler uses inventory for any purpose besides display or demonstration in the normal course of selling that inventory, the retailer or wholesaler owes use tax. If inventory is consumed during such a display or demonstration, the retailer or wholesaler owes use tax. The retailer or wholesaler calculates the use tax on the value of the tangible personal property. Use tax ~~does not~~ doesn't

apply to any use or consumption of tangible personal property where such use is specifically exempted from use tax by Idaho Code. ~~(3-31-22)~~( )

a. Inventory held for resale becomes subject to use tax at the time the retailer or wholesaler removes the tangible personal property from inventory. If a retailer or wholesaler removes tangible personal property from inventory and then performs additional manufacturing or processing labor, the retailer or wholesaler should calculate use tax on the acquisition cost before the additional labor. However, if a retailer or wholesaler removes tangible personal property after performing additional manufacturing or processing labor, the retailer or wholesaler calculates use tax on the total inventoried cost including the additional labor. (3-31-22)

~~**b.** Special rules apply to retailers giving away prepared food and beverage to their employees. See Rule 041 of these rules for more information. (3-31-22)~~

~~**c.** Example 1. A sawmill withdraws lumber from its resale inventory and uses it to construct a building. The lumber was not identified for this use until it was taken from inventory held for resale. Use tax is due on the manufactured value of the lumber taken from inventory. (3-31-22)~~

~~**d.** Example 2. A sawmill cuts specific trees from its own land. The sawmill then cuts these trees to specific dimensions and uses the beams and lumber to construct a building. The trees and lumber are identified for use in constructing the building from the time the trees are cut. Use tax is due on the stumpage value of the trees. (3-31-22)~~

~~**e.** Example 3. A retailer buys shirts without paying tax for resale inventory. The shirts cost the retailer ten dollars ($10) each. The retailer withdraws ten (10) of the shirts from inventory and donates them to a sports team they are sponsoring. The retailer owes use tax on one hundred dollars ($100). (3-31-22)~~

08. **Examples**. Available at Sales and Use Tax Rules Examples. ( )

073. TANGIBLE PERSONAL PROPERTY BROUGHT OR SHIPPED TO IDAHO ~~(RULE 073)~~.
Sections 63-3615, 63-3621, 63-3621A, Idaho Code

01. Equipment Brought into Idaho. Equipment or other tangible personal property brought or shipped to Idaho by residents or nonresidents is presumed to be for storage, use, or other consumption in this state. Generally, tangible personal property is subject to use tax on its fair market value when it is first used in Idaho. ~~Special rules apply to transient equipment present in Idaho for ninety (90) days or less in any consecutive twelve (12) month period. See Section 63-3621A, Idaho Code, and Subsection 073.03 of this rule. For property a contractor fabricates to install into Idaho real property, see Rule 012 of these rules. (3-31-22)~~( )

02. Substantive Use. Any substantive use of the property in Idaho is sufficient to subject the property to use tax. ~~Use is defined in Section 63-3615, Idaho Code, and Rule 072 of these rules.~~ The use tax ~~does not~~ doesn't apply to the use of items purchased before July 1, 1965, or the use of items excluded from tax by Idaho Code. ~~(3-31-22)~~( )

~~**03. Transient Equipment**. Transient equipment means equipment that is: owned by the user, which is a business based in another state; a depreciable asset for income tax purposes and treated as such on the owner's income tax returns; brought to Idaho and kept here for ninety (90) days or less in any consecutive twelve (12) months; and either was not taxed in another state or, if tax was paid to another state, the amount paid was less than the amount of Idaho use tax due. (3-31-22)~~

~~**a.** A nonresident business that brings transient equipment to Idaho may elect to pay use tax on either the fair market value of the equipment at the time it enters Idaho, or the fair market rental value of transient equipment for the time it is kept in Idaho. Fair market rental value is the amount it would cost to rent or lease similar equipment from an unrelated equipment rental company. (3-31-22)~~

~~**b.** Businesses that elect to pay use tax on the rental value of transient equipment may do so without the approval of the Commission as long as the use tax due on the first month's rental is paid in a timely manner. If the owner fails to pay the tax timely, he will need written approval from the Commission to use this option. (3-31-22)~~

~~**c.** Equipment which remains in Idaho for more than ninety (90) days in any consecutive twelve (12) months is no longer transient. This equipment becomes subject to Idaho use tax on its fair market value at that time. No credit may be taken for use tax paid on fair market rentals against the use tax due at the time equipment ceases to qualify as transient. (3-31-22)~~

~~**d.** Example: A Wyoming contractor brings transient equipment, with a fair market value of one hundred thousand dollars ($100,000), to Idaho for use on a ninety (90) day project. The fair market rental value of the equipment for the ninety (90) days totals fifteen thousand dollars ($15,000). Idaho use tax on the fair market rental value, assuming a rate of six percent (6%), totals nine hundred dollars ($900). The contractor paid three thousand five hundred dollars ($3,500) of sales tax to the state of Wyoming when he bought the equipment new. The contractor is not required to pay tax to Idaho since the tax paid to Wyoming exceeds the amount of Idaho use tax due. (3-31-22)~~

~~**e.** Example: The same contractor in the previous example returns to Idaho within the same twelve (12) months with the same equipment, now with a fair market value of ninety-five thousand dollars ($95,000). As the equipment has now exceeded the ninety (90) day rule for transient equipment, it is subject to Idaho's six percent (6%) use tax on its present value of ninety five thousand dollars ($95,000) x six percent (6%) = five thousand seven hundred dollars ($5,700). Credit of two thousand six hundred dollars ($2,600) is allowed for sales tax paid to Wyoming, three thousand five hundred dollars ($3,500) less the nine hundred dollar ($900) credit already used on rentals. The contractor owes three thousand one hundred dollars ($3,100) of use tax to Idaho. (3-31-22)~~

~~**04. Licensed Motor Vehicles**. A motor vehicle licensed in a nonresident's home state and brought to Idaho to use for ninety (90) days or less in any consecutive twelve (12) months is not subject to Idaho use tax. Once the vehicle is used here more than ninety (90) days during any consecutive twelve (12) months, use tax applies to the fair market value of the vehicle at that time unless tax was paid to another state in an amount equal to, or greater than, the tax owed to Idaho. Special rules apply to new residents, nonresident college students, and temporarily assigned military personnel in Idaho. See Rule 107 of these rules. (3-31-22)~~

03. Examples. Available at Sales and Use Tax Rules Examples. ( )

~~**074. DONATIONS TO POLITICAL SUBDIVISIONS AND CERTAIN NONPROFIT ORGANIZATIONS OF TANGIBLE PERSONAL PROPERTY USED FOR IMPROVEMENTS TO REAL PROPERTY (RULE 074).**~~
~~Sections 63-3609, 63-3612, 63-3613, 63-3621, 63-3622O, Idaho Code~~

~~**01. Donated Property**. Effective July 1, 1991, there is an exemption from the use tax for the donation of tangible personal property which is incorporated into real property, when donated to the state of Idaho, political subdivisions of this state, or a nonprofit organization as defined in Section 63-3622O, Idaho Code. The exemption applies whether the tangible personal property is incorporated into real property by the donee, a contractor or subcontractor or any other person. (3-31-22)~~

~~**02. Purchase of Donated Items**. This exemption does not apply to sales tax which is applicable to the purchase of tangible personal property which will be donated to the state of Idaho, its political subdivisions, or qualified nonprofit organizations, for incorporation into real property. (3-31-22)~~

~~**03. Property Not Incorporated into Real Property**. This exemption does not apply to the sales or use tax applicable to tangible personal property donated to the state of Idaho, its political subdivisions, or qualified nonprofit organizations when the property donated will not be incorporated into real property. (3-31-22)~~

~~**a.** Example 1: A concrete company removes from inventory and donates twenty (20) yards of redi-mix concrete to a nonprofit Idaho college for the footings of a storage building. Another contractor who is donating labor for erection of the building places the redi-mix concrete. Neither the redi-mix concrete company nor the contractor owe use tax. (3-31-22)~~

~~**b.** Example 2: The same concrete company donates twenty (20) yards of redi-mix concrete to a nonprofit organization which is not listed in Section 63-3622O, Idaho Code. The concrete company owes use tax on the cost of the materials removed from inventory for the donation. (3-31-22)~~

~~c.~~ ~~Example 3: A contractor buys materials from a local lumber yard which they donate to the nonprofit Idaho college to be used in building a storage building. This contractor pays sales tax on the material because the law provides exemption only from use tax.~~ ~~(3-31-22)~~

~~d.~~ ~~Example 4: A local automobile dealer takes three vehicles from inventory and donates them to the athletic department of an Idaho university. The exemption does not apply. The automobile dealer owes use tax on his cost of the vehicles because the vehicles will not become improvements to real property.~~ ~~(3-31-22)~~

07~~5~~4. -- 076. (RESERVED)

077. EXEMPTION FOR RESEARCH AND DEVELOPMENT AT THE IDAHO NATIONAL LABORATORY (INL) ~~(RULE 077)~~.
Section 63-3622BB, Idaho Code

~~**01. Exclusive Financing Exemption Under Section 63-3622BB(1), Idaho Code.** The purchase of certain tangible personal property used in connection with certain activities at the Idaho National Laboratory (INL) is exempt from sales and use tax. To qualify for this exemption, the property needs to be tangible personal property primarily or directly used or consumed in research, development, experimental and testing activities, exclusively financed by the United States Government.~~ ~~(3-31-22)~~

~~a.~~ ~~Qualifying Activity. Research, development, experimental, and testing activity means any activity of an original investigation, for the advancement of scientific knowledge in a field of laboratory science, engineering or technology and does not have an actual commercial application.~~ ~~(3-31-22)~~

~~b~~**01. Real Property**. The exemption ~~does not~~ doesn't apply to real property or to tangible personal property which will become improvements or fixtures to real property. See ~~Rules~~ Sections 012 and 067 ~~of these rules~~. ~~(3-31-22)~~( )

~~c~~**02. Incidental Use of Property**. This exemption ~~does not~~ doesn't extend to the incidental use of any tangible personal property which fails to meet the test of primary or direct use or consumption. ~~(3-31-22)~~( )

~~i~~**a.** Areas of support which are considered incidental include: communications equipment; office equipment and supplies; janitorial equipment and supplies; training equipment and supplies; dosimetry or radiation monitoring equipment which lacks the capability of giving an immediate indication and would not result in an immediate evacuation of personnel or shutdown of equipment; subscriptions or technical manuals which provide technology not primarily used or directly connected to the research activity; and hot and cold laundry operations. (3-31-22)

~~ii~~**b.** Materials of common support which are considered incidental include: clothing for weather protection or of a reusable nature; hand tools which are not subject to contamination at the time of initial use; protective coverings which are protection from other than radiation or are of a reusable nature; and all safety equipment and supplies which ~~do not~~ don't protect from direct radiation exposure. ~~(3-31-22)~~( )

~~d~~**03. Property Directly Used or Consumed**. Tangible personal property primarily or directly used or consumed in a research and development activity to perform quality assurance on research equipment isn't taxable ~~exempt~~. Items of a general support nature, such as coveralls, are taxable. ~~(3-31-22)~~( )

~~e~~**04. Parts for Equipment**. The use of tangible personal property which becomes a component part of research equipment being calibrated within a calibration lab isn't taxable ~~exempt~~; whereas~~,~~ the use of parts and equipment in calibrating or for the repair of other maintenance equipment is taxable. ~~(3-31-22)~~( )

~~f~~**05. Radioactive Waste**. The initial containment or storage of radioactive waste is an exempt use. Any further processing or transporting of such waste not relating to a research and development activity is a taxable use. (3-31-22)

~~g.~~ ~~Motor Vehicles. The purchase of any motor vehicle licensed or required to be licensed by the laws~~

~~of this state is taxable.~~ ~~(3-31-22)~~

~~b~~06. **Agreements with Contractors**. The Tax Commission may enter into agreements with contractors engaged in research at the INL prescribing methods by which the contractor or contractors may accrue use tax based on the accounting procedures ~~required~~ obligated by the U.S. Department of Energy. ~~(3-31-22)~~( )

~~02. Percentage of Tangible Personal Property Exemption Under Section 63-3622BB(2), Idaho Code. If a facility is used by the United States or one (1) of its management and operating contractors for research and development activities at the INL and also is used by a person or persons in addition to the United States or one (1) of its management and operating contractors, there is exempted from the taxes imposed by this chapter a percentage of each sale or use of tangible personal property used or consumed at or for the benefit of the facility in the amount that the research and development activities of the United States or its management and operating contractors bear to the total use of the facility by all persons. The Commission will calculate, review, and verify the allocation provided for in this section.~~ ~~(3-31-22)~~

078. MOTOR FUELS ~~(RULE 078)~~.
Sections 63-2421, 63-2431, 63-3621, 63-3622C, 63-3622D, 63-3622G, Idaho Code

01. Exemptions. (3-31-22)

a. Motor fuels~~, including gasoline, diesel and gaseous fuels, upon which the taxes are imposed by~~ taxed under Title 63, Chapter 24, Idaho Code, are exempt from sales and use taxes. ~~IDAPA 35.01.05, "Idaho Motor Fuels Tax Administrative Rules," explains in detail which petroleum and gaseous products are taxable as motor fuel. Also exempt are purchases upon which motor fuels taxes have been paid.~~ If such purchases are later included in credits or refunds for motor fuels taxes paid and not subject to taxes imposed by Title 63, Chapter 24, Idaho Code, and no other exemption applies, sales and use taxes ~~will be~~ are applicable. ~~(3-31-22)~~( )

~~b. Fuel may be exempt under Section 63-3622(D), Idaho Code.~~ ~~(3-31-22)~~

~~c. Fuel used as heating fuel may be exempt if it qualifies under the exemption for space heating materials. See Rule 088 of this rule.~~ ~~(3-31-22)~~

~~d~~b. The sale or use of fuel for subsequent use outside this state and fuel brought into this state in the fuel tanks of vehicles in interstate commerce may be exempt. It is mandatory for ~~C~~carriers engaging in interstate commerce ~~are required~~ to maintain sufficient verifiable statistical data to substantiate any exemption claimed for fuel purchased in Idaho for use outside this state. In the case of a substantial change in the mode of operation of the carrier or other circumstances that would cause the statistical data to be invalid, the carrier ~~is required~~ needs to review and adjust the exemption claimed accordingly. ~~(3-31-22)~~( )

02. Exclusion from Exemption. Purchase or use of any fuels may be subject to sales and use taxes if no other exemption applies. ~~Examples include~~The following, without limitation, are taxable: ~~(3-31-22)~~( )

a. Fuel used by a road contractor in the operation of construction equipment or operation of stationary engines to generate electricity, unless all ~~of~~ the electricity generated is used primarily and directly in the processing, manufacturing, or fabricating of tangible personal property to be sold at retail. ~~(3-31-22)~~( )

b. Fuel used by private contractors in off-road vehicles in the performance of contracts with any governmental instrumentality. (3-31-22)

079. PRODUCTION EXEMPTION ~~(RULE 079)~~.
Sections 63-3622, 63-3622D, 63-3622X, 63-3622HH, Idaho Code~~.~~

01. In General. ~~Section 63-3622D, Idaho Code, known as t~~The production exemption~~,~~ provides an exemption from sales and use taxes for certain tangible personal property used in production activities. ~~The production activities include:~~ Differences in the way a specific taxpayer conducts business can result in taxability determinations that are different for other taxpayers. Determinations of taxability are based upon the equipment's primary use when such equipment is used for more than one (1) purpose. ~~(3-31-22)~~( )

~~**a.** A manufacturing, processing, or fabrication operation primarily devoted to producing tangible personal property that it will sell and is intended to be ultimately sold at retail.~~ ~~(3-31-22)~~

~~**b.** The following types of businesses may also qualify for the exemption, even though they perform services and do not actually sell tangible personal property:~~ ~~(3-31-22)~~

~~i. The business of custom farming or operating a farm or ranch for profit.~~ ~~(3-31-22)~~

~~ii. The business of contract mining or operating a mine for profit.~~ ~~(3-31-22)~~

~~iii. Businesses devoted to processing tangible personal property for use as fuel for the production of energy.~~ ~~(3-31-22)~~

~~**02. Qualifying Businesses**. The production exemption applies only to a business or a separately operated segment of a business that primarily produces tangible personal property which is intended for ultimate sale at retail.~~ ~~(3-31-22)~~

a. For the purposes of this ~~rule~~ section, a separately operated segment of a business is a segment of a business for which separate records are maintained and which is operated by an employee or employees whose primary employment responsibility is to operate the business segment. ~~(3-31-22)~~( )

b. The production exemption ~~does not~~ doesn't include the performance of contracts to improve real property, such as road or building construction, or to service-related businesses not devoted to the production of tangible personal property for ultimate sale at retail. ~~(3-31-22)~~( )

~~**c.** To qualify for the production exemption, a business sells the products it produces or processes. The only exceptions are businesses primarily devoted to processing fuel to be used for the production of energy; custom farming; and contract mining.~~ ~~(3-31-22)~~

03. Exempt Purchases. As applied to manufacturing, processing, mining, or fabrication operations, sales and purchases of the following tangible personal property are exempt, except as limited by other subsections of this ~~rule~~ section: ~~(3-31-22)~~( )

~~**a.** Raw materials that become an ingredient or component part of the product which is produced.~~ ~~(3-31-22)~~

~~**b.** Equipment and supplies used or consumed primarily and directly in the production process and which are necessary or essential to perform the operation. To qualify, the production use is the primary use of the equipment and supplies and they will be used directly in the production process.~~ ~~(3-31-22)~~

~~**c.** Chemicals and catalysts consumed in the production process which are used directly in the process but which do not become an ingredient or component part of the property produced.~~ ~~(3-31-22)~~

~~**d.** Repair parts, lubricants, hydraulic oil, and coolants, which become a component part of production equipment.~~ ~~(3-31-22)~~

~~**e.** Fuel, such as diesel, gasoline, and propane used in equipment while performing production exempt activities.~~ ~~(3-31-22)~~

~~**f.** Chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries.~~ ~~(3-31-22)~~

~~**g.** Safety equipment and supplies required by a state or federal agency when used directly in a production area.~~ ~~(3-31-22)~~

~~**h**~~**a.** Equipment such as cranes, manlifts, and scissor lifts used primarily to install production equipment.

(3-31-22)

~~i~~b. Equipment used primarily to fabricate production equipment. (3-31-22)

~~j~~c. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-31-22)

04. Production Process Beginning and End. The production process begins when raw materials used in the process are first handled by the operator at the processing plant or site. The production process ends when the product is placed in storage, however temporary, ready for shipment or when it reaches the final form in which it will be sold at retail, whichever occurs last. See ~~Rule~~ Section 083 ~~of these rules~~ regarding farming. ~~(3-31-22)~~( )

05. Taxable Purchases. The production exemption ~~does not~~ doesn't include any of the following: ~~(3-31-22)~~( )

a. Motor vehicles ~~required~~ that are to be licensed by Idaho law~~. A motor vehicle required to be licensed~~, but not ~~actually~~ licensed, ~~is~~ are taxable. A motor vehicle not ~~required~~ obligated to be licensed is exempt under the production exemption only if it meets the tests in Subsection 079.03 of this ~~rule~~ section. ~~(3-31-22)~~( )

~~**b.** Repair parts for any equipment which does not qualify for the production exemption. (3-31-22)~~

~~**c.** Office equipment and supplies. (3-31-22)~~

~~**d.** Safety equipment and supplies used somewhere other than a production area, such as an office, or which are not required by a state or federal agency even if used in a production area. (3-31-22)~~

~~**e.** Equipment and supplies used in selling and distribution activities. (3-31-22)~~

~~**f.** Janitorial equipment and supplies, other than disinfectants used in the dairy industry to clean pipes, vats, and udders, and clean-in-place equipment and chemicals used in food processing or food manufacturing. (3-31-22)~~

~~**g.** Maintenance and repair equipment and supplies which do not become component parts of production equipment, such as welders, welding gases, shop equipment, etc. (3-31-22)~~

~~**h.** Transportation equipment and supplies. (3-31-22)~~

~~**i.** Aircraft of any type and supplies. (3-31-22)~~

~~j~~b. Paint, plastic coatings, and similar products used to protect and maintain equipment, whether applied to production equipment or other equipment. ~~(3-31-22)~~( )

~~**k.** Other incidental items not directly used in production. (3-31-22)~~

~~k~~c. Fuel used in equipment while performing activities that ~~do not~~ don't qualify for the production exemption. ~~(3-31-22)~~( )

~~**m.** Recreation-related vehicles as described in 63-3622HH, Idaho Code, regardless of use. (3-31-22)~~

~~**n.** Parts to repair recreation-related vehicles. (3-31-22)~~

~~o~~d. Equipment used primarily to construct, improve, alter, or repair real property. (3-31-22)

~~**06. Real Property**. The production exemption applies only to tangible personal property. It does not apply to real property or to tangible personal property purchased with the intention of becoming improvements or fixtures to real property. The production exemption does not apply to equipment and materials primarily used to improve real property. (3-31-22)~~

~~**07. Change in Primary Use of Property**. If tangible personal property is purchased for a use which qualifies for the production exemption but later is used primarily for another purpose, it becomes taxable at its fair market value when it ceases to qualify for the exemption. For instance, a loader may be used primarily in a mining operation when purchased. If the primary use of the loader is later changed from mining to road building, it becomes taxable at its fair market value when it ceases to be used for mining. If tax is paid on tangible personal property because no exemption applies at the time of purchase, and the property later becomes eligible for the production exemption, no refund is due the owner. (3-31-22)~~

0~~8~~6. **Transportation Activities**. ~~Equipment and supplies used in transportation activities do not qualify for the production exemption.~~ ~~(3-31-22)~~( )

a. Transportation includes the movement of tangible personal property over private or public roads or highways, canals, rivers, rail lines, through pipelines or slurry lines, or on private or public aircraft. (3-31-22)

b. Transportation includes movements of tangible personal property from one (1) separate location which is a continuous manufacturing, processing, mining, fabricating or farming activity to another separate location which is a continuous exempt activity or process. (3-31-22)

c. Transportation includes movement of raw materials, except farm produce, from a point of initial extraction or severance or importation to a point where processing, manufacturing, refining, or fabrication begins. See ~~Rule~~ Section 083 ~~of these rules~~ regarding farming. ~~(3-31-22)~~( )

~~**09. Exemption Certificate**. To claim the production exemption the customer must complete an exemption certificate for the seller's records. See Rule 128 of these rules. (3-31-22)~~

~~1~~07. **Special Rules**. Special rules apply to irrigation equipment, contractors, loggers, and farmers who act as retailers. Refer to the specific rules relating to those subjects. (3-31-22)

080. LUMBER MANUFACTURING ~~(RULE 080)~~.
Sections 63-3622, 63-3622D, 63-3622X, 63-3622HH, Idaho Code

This ~~rule is intended to~~ sections illustrates the application of the production exemption to the lumber manufacturing industry~~. The provisions of this rule are~~ and is based upon the usual methods of doing business used in the industry ~~generally. Factual differences in the manner in which a specific taxpayer may conduct its business can result in determinations different from those stated in this rule.~~ In cases not covered by this ~~rule~~ section, the general principles ~~stated in Rule 079 of these rules will control~~ of the production exemption apply. ~~Some equipment may be used for more than one purpose. Determinations of taxability will be based upon the equipment's primary use.~~ This ~~rule~~ section is limited in application to the manufacturing of rough and finished lumber and ~~does not~~ doesn't encompass the manufacturing of plywood, particleboard, veneer, or paper products. ~~(3-31-22)~~( )

01. Nontaxable Activities. Generally considered as nontaxable activities are the following: (3-31-22)

a. Log receiving including log loaders, cranes, and front end loaders. (3-31-22)

b. Log deck/log pond including log loading equipment and boats moving logs from the storage area to the de-barker; sprinkler equipment when used for prevention of product deterioration; and devices used to detect metal in logs. (3-31-22)

c. Debarking equipment used to strip bark from logs including conveyor equipment for moving debarked logs further into the mill or for conveying bark when bark is used as boiler fuel or when conveying bark to a further processing stage. (3-31-22)

d. Chipper, used to produce chips including chip storage bins and pneumatic conveyors. (3-31-22)

e. Mill deck, as used for grading and cutting to length. (3-31-22)

f. Headrig/shotgun, as used for sawing logs. (3-31-22)

g. Edger, as used for edging rough lumber. (3-31-22)

h. Trimmer, as used for trimming to length. (3-31-22)

i. Resaw, as used for producing the proper thickness. (3-31-22)

j. Green chain, as used to determine according to size and species the amount of mandatory time ~~required~~ in the dry kiln. ~~(3-31-22)~~( )

k. Dry kiln, as used to reduce moisture content. This exemption encompasses fire brick, steam pipe, and fans inside the kiln but ~~does not~~ doesn't include improvements to real property. ~~(3-31-22)~~( )

l. Unstackers. (3-31-22)

m. Planers, as used for finishing, grading and grade stamping of specialty products. (3-31-22)

n. Boiler when used for the generation of steam used to operate production equipment. (3-31-22)

o. Powerhouse when used to generate power used to operate production equipment. (3-31-22)

p. Waste collection, as used for the collection of waste products for use as fuel for the boiler, generally referred to as hog fuel. (3-31-22)

q. Lumber wrap and steel strapping used for packaging material. (3-31-22)

~~**r.** Pollution control equipment when required by a state or federal agency. (3-31-22)~~

~~**s.** Equipment used primarily to install exempt equipment. (3-31-22)~~

~~**t.** Equipment used primarily to fabricate exempt equipment. (3-31-22)~~

~~**u.** Safety equipment and supplies required by a state or federal agency and used in a production area. (3-31-22)~~

~~**v.** Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-31-22)~~

02. Taxable Activities. Generally considered as taxable activities are the following: (3-31-22)

a. Saw filing activities using saw filing equipment and saw filing supplies. (3-31-22)

b. Shipping, including loading equipment and strapping, seals, and binders used in shipping activities to secure lumber on railroad cars, trucks, etc. (3-31-22)

c. Cleanup. (3-31-22)

~~**d.** Equipment used to repair or maintain production equipment. (3-31-22)~~

~~**e.** Equipment used primarily to construct, improve, alter or repair real property. (3-31-22)~~

~~**f.** Safety equipment and supplies used in an area where no manufacturing occurs such as an office, or which are not required by a state or federal agency even if used in a production area. (3-31-22)~~

~~**g.** Other items specifically identified as taxable in Rule 079 of these rules. (3-31-22)~~

~~**03. Exemption Certificate**. Persons engaged in lumber manufacturing who wish to purchase goods that qualify for this exemption without paying sales tax complete an exemption certificate. See Rule 128 of these rules.~~ ~~(3-31-22)~~

081. UNDERGROUND MINING ~~(RULE 081).~~
Sections ~~63-3605B,~~ 63-3622, 63-3622D, 63-3622X, 63-3622HH, Idaho Code
This ~~rule is meant to show how~~ section illustrates the application of the production exemption ~~applies~~ to the underground mining industry~~. This rule~~ and is based on the usual methods of doing business in the industry. ~~Differences in the way a specific taxpayer conducts his business can result in determinations different from those in this rule.~~ In cases not covered by this ~~rule~~ section, the general principles ~~in Rule 079 of these rules~~ apply. ~~Determinations of taxability are based on the primary use of equipment.~~ ~~(3-31-22)~~( )

01. Nontaxable Purchases. The following are generally considered nontaxable: (3-31-22)

a. Development of known ore deposits, including diamond drilling and other activities to develop levels, laterals, crosscuts, drifts, stopes, raises and shafts. (3-31-22)

b. Support materials, including, timber, concrete, rock bolts, shotcrete, matting, and equipment used to install them. (3-31-22)

c. Drilling of blast holes to facilitate the extraction of ore including pneumatic rock drills and compressors used to supply compressed air to operate pneumatic rock drills. (3-31-22)

d. Blasting to facilitate the extraction of ore using explosives, caps, fuses, etc. (3-31-22)

e. Slushing/mucking to convey broken ore and waste to passes and chutes using scrapers, slushers, muckers, hoists and loaders, and backhoes used to recover both ore and waste. (3-31-22)

f. Hauling, horizontal transportation, to transport ore, waste, men or materials from chutes into cars and the movement of the cars to shaft stations using skips, hoists, hoist cable, shafts, shaft timbers, shaft stations, shaft pockets, shaft guides, concrete, etc. (3-31-22)

g. Haulage, vertical transportation, to hoist ore, waste, men or materials in skips, using skips, hoists, hoist cable, shafts, shaft timbers, shaft stations, shaft pockets, shaft guides, concrete, etc. (3-31-22)

h. Transportation to the surface to load the ore, waste, men or materials into main haulage cars for transportation using locomotives, haulage cars, track and track spikes, fuel batteries used to power locomotives, and conveyors and conveyor belts. (3-31-22)

i. Backfilling to pump tailings back underground as hydraulic sandfill to backfill mined-out areas using, pumps, sumps, pipe, and concrete. (3-31-22)

j. Personal equipment including hard hats, miners' lights, belts, and batteries. (3-31-22)

k. Sampling/assaying for quality control purposes. (3-31-22)

l. Safety equipment and supplies ~~required~~ mandated by a state or federal agency when used directly in a mining area. ~~(3-31-22)~~( )

~~**m.** Equipment used primarily to install production equipment.~~ ~~(3-31-22)~~

~~**n.** Equipment used primarily to fabricate production equipment.~~ ~~(3-31-22)~~

~~**o.** Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards.~~ ~~(3-31-22)~~

02. Taxable Purchases. The following are generally considered taxable: (3-31-22)

a. Diamond drilling activities used for exploration. (3-31-22)

b. Air ventilation and conditioning if an improvement to real property including fans, motors, vent ducts; coolers; and air doors. (3-31-22)

c. Water lines and pumps used to remove water from the mine if improvements to real property. (3-31-22)

d. Safety equipment and supplies used somewhere other than a mining area, such as an office, or not ~~required~~ mandated by a state or federal agency even if used in a mining area. ~~(3-31-22)~~( )

e. Maintenance and cleanup using backhoes, except when the primary use is to recover ore or waste; equipment used to repair or maintain mining equipment; battery maintenance equipment including battery chargers, and shop supplies and other materials or supplies which ~~do not~~ don't become a component part of production exempt equipment. ~~(3-31-22)~~( )

f. Sampling/assaying for purposes other than quality control. (3-31-22)

~~**g.** Other items specifically identified as taxable in Rule 079 of these rules. (3-31-22)~~

~~**03. Exemption Certificate**. To claim this exemption underground miners will complete an exemption certificate for the seller's records. See Rule 128 of these rules. (3-31-22)~~

082. ABOVEGROUND, OPEN PIT, MINING ~~(RULE 082)~~.
Sections 47-701, 47-701A, 63-3605H, 63-3622, 63-3622D, 63-3622X, 63-3622HH, Idaho Code

This ~~rule is meant to show how~~ section illustrates the application of the production exemption ~~applies~~ to the aboveground, open pit, mining industry. ~~This rule~~ and is based on the usual methods of doing business in the industry. ~~Differences in the way a specific taxpayer conducts his business can result in determinations different than those stated in this rule.~~ In cases not covered by this ~~rule~~ section, the general principles ~~stated in Rule 079 of these rules~~ of the production exemption apply. ~~Determinations of taxability are made based on primary use of the equipment.~~ This ~~rule~~ section applies only to activities related to aboveground mining, ~~activities commonly referred to as open pit mining. Mining~~ which ~~does not~~doesn't include soil extraction. ~~(3-31-22)~~( )

01. Exempt Purchases. The following are generally considered nontaxable: (3-31-22)

a. Drilling and blasting, to loosen overburden for removal or, to define limits of existing ore bodies using track drills, rotary drills, and compressors to operate them, drill rods, drill bits, explosives, caps, fuses, etc., for this purpose. (3-31-22)

b. Ore and overburden extraction and removal using front end loaders, track loaders, power shovels, backhoes, scoop loaders, and similar equipment used to extract and load ore or strip and load overburden. (3-31-22)

c. Hauling of ore and overburden to stockpiles, loading sites, or disposal sites on the mine site using scrapers, carryalls, and off-highway trucks and trailers. (3-31-22)

d. Ore sorting, grading, sizing, and crushing operations, including unloading from transport devices using bulldozers, front end loaders, crushers, conveyors, and similar equipment. (3-31-22)

~~**e.** Pollution control equipment required by a state or federal agency. See Section 63-3622X, Idaho Code. (3-31-22)~~

~~**f.** Safety equipment and supplies required by a state or federal agency when directly used in a mining area. (3-31-22)~~

~~**g.** Equipment used primarily to fabricate or install production equipment. (3-31-22)~~

~~**h.** Equipment such as cranes, manlifts, and scissorlifts, used primarily to install production equipment.~~ ~~(3-31-22)~~

~~**i.** Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards.~~ ~~(3-31-22)~~

02. Taxable Purchases. The following are generally considered taxable: (3-31-22)

a. Exploration, where the primary purpose is to discover new ore bodies using equipment, including rotary drills, drill rigs, blasting equipment, seismic equipment, cats, bulldozers, and other materials and supplies, primarily used for such activities. (3-31-22)

b. Real property improvements, construction, and maintenance activities, including materials and equipment used primarily for constructing or maintaining buildings, fences, railroads, concrete pads and footings, and roads. Equipment, including cranes, concrete equipment, and post hole diggers primarily used for such purposes. Materials and supplies, including lumber, steel, roofing, trusses, fence posts, gates, and wire; and concrete, rebar, and re-mesh. (3-31-22)

c. Maintenance and cleanup activities, including those where the primary purpose is to maintain equipment and facilities or cleanup grounds and roads, except where cleanup activities are done primarily to recover ore. Shop or other equipment used primarily to repair, clean, or maintain production equipment, including welders, lathes, shop tools, hoists, cranes, mechanics' trucks, oiling trucks and trailers, steam cleaners, and testing equipment. Shop and other materials and supplies which ~~will not~~ won't become a component part of production equipment. ~~(3-31-22)~~( )

d. Land reclamation activities, including activities where mined ore pits or panels are filled in, shaped, and reseeded, including seed or seedlings, fertilizers, soil conditioners, soil, and bulldozers, scrapers, and seed drills primarily used for this purpose; however, equipment primarily used for ore and overburden extraction and loading is exempt, even though this equipment is also used in land reclamation. (3-31-22)

e. Transportation of personnel and materials, including transportation to and from worksites or about the mine in general using buses, people movers, trailers, trucks, or similar equipment. (3-31-22)

f. Equipment and supplies used in transportation activities where ore or overburden is moved between geographically separated mine sites, processing plants or disposal sites, if 1) a substantial break in the production activities occurs, and 2) the activity ~~does not~~ doesn't sort, grade, size, crush, or in some other way further process the ore. Transportation activities include loading, transporting, unloading, and stockpiling. A substantial break in the production activities occurs when the product is transported between geographically separated production sites by means of public roads, waterways, airways, railways, or any other public means. The production facility to which the product is transported is a separate processing facility, and the equipment and supplies used to transport the product taxable. ~~Examples of t~~Taxable equipment includes: trucks and trailers, whether licensed or unlicensed; railroad equipment; barges and other watercraft; pipelines; conveyors; front end loaders; and bulldozers. If the means of transport to processing plants, smelters, etc., ~~does not~~ doesn't constitute a substantial break in the process, such as a slurry line directly from the mine to the plant, then the loading and unloading activities are not taxable. ~~(3-31-22)~~( )

g. Personnel support activities, including facilities, equipment, and supplies for eating, sleeping, and recreation. ~~Examples~~ Taxable items include eating trailers, utensils and food, beds, linens, clothing provided to employees at no charge, and pool tables~~, beds, and linen~~. ~~(3-31-22)~~( )

~~**h.** Other items specifically identified as taxable in Rule 079 of these rules.~~ ~~(3-31-22)~~

~~**03. Exemption Certificate**. To claim the production exemption, above ground miners will complete an exemption certificate for the seller's records. See Rule 128 of these rules.~~ ~~(3-31-22)~~

083. FARMING AND RANCHING ~~(RULE 083)~~.

Sections 63-3603, 63-3622, 63-3622D, 63-3622W, 63-3622X, 63-3622HH, Idaho Code
This ~~rule is intended to~~ section illustrates the application of the production exemption to the farming and ranching industry~~. The provisions of this rule are~~ and is based on the usual methods of doing business in the industry~~. Specific factual differences in the manner in which a specific taxpayer may conduct his business can result in determinations different from those stated in this rule.~~ In ~~C~~cases not covered by this ~~rule are controlled by~~ section, the general principles ~~stated in Rule 079 of these rules. Some equipment may be used for more than one purpose. Determinations of taxability will be based upon the equipment's primary use~~ of the production exemption apply. ~~(3-31-22)~~( )

01. In General. Farming ~~includes custom farming and the operation of a farm or ranch, and includes stock, dairy, poultry, fish, fur, fruit and truck farms, ranches, ranges, and orchards~~ applies to a business operated with the intention of making a gain or profit. Farming ~~does not~~ doesn't include operation of ranches or stables where the sole purpose is showing or racing horses, or the breeding of show or race horses. ~~(3-31-22)~~( )

~~**02. Property Primarily and Directly Used**. As applied to the business of farming, the exemption applies to all tangible personal property which is primarily and directly used to conduct the farming business, and which is necessary or essential to the operation, except those categories of property listed in other sections of this rule.~~ ~~(3-31-22)~~

~~**03. Directly Used**. The term "directly used or consumed in or during" farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including the planting, growing, harvesting, storage and removal from storage of crops and other agricultural products, and movement of crops and produce from the place of harvest to the place of initial storage.~~ ~~(3-31-22)~~

0~~4~~2. **Transportation Activities**. Equipment used to move farm produce to initial storage is exempt, even though it may be mounted on a vehicle which is ~~required~~ mandated to be licensed and is taxable. Equipment qualifies for this exemption if: ~~(3-31-22)~~( )

a. It is readily removable from the vehicle on which it is mounted; (3-31-22)

b. It is separately stated on the vendor's invoice; and (3-31-22)

c. ~~It is~~It's sold to a qualified farming operation ~~and is supported by a valid exemption claim form~~. ~~(3-31-22)~~( )

~~**05. Disinfectants Used in the Dairy Industry**. Disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats, or other milking equipment are exempt.~~ ~~(3-31-22)~~

~~**06. Safety Supplies**. Safety supplies required by a state or federal agency and directly used in a farming operation are exempt from sales or use tax.~~ ~~(3-31-22)~~

~~**07. Plants**. Plants, such as orchard trees and grape vines, are exempt.~~ ~~(3-31-22)~~

~~**08. Quality Control**. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards.~~ ~~(3-31-22)~~

0~~9~~3. **The Farming Exemption ~~Does Not~~ Doesn't Include**: ~~(3-31-22)~~( )

a. Property purchased to meet the personal needs of a farmer, ~~his~~ a farmer's family, or employees. ~~Examples of i~~Items ~~that are~~ excluded from the exemption include, but are not limited to, hand soap, toothpaste, shampoo, blankets, sheets, pillowcases, towels, washcloths, irrigation boots, coveralls, gloves, other clothing, and grocery items. ~~(3-31-22)~~( )

b. Food and supplies purchased for barnyard and household pets, such as cat and dog food, are taxable. Even though a dog may occasionally be used for herding livestock or a cat may control mice in the barn, the supplies purchased for their care and maintenance ~~do not~~ don't qualify for the production exemption. Only when a dog's SOLE purpose is the herding or protection of a rancher's livestock may the food and supplies for the dog be purchased tax exempt under the production exemption. ~~(3-31-22)~~( )

c. Livestock trailers which may be attached to motor vehicles used to transport horses, cattle, sheep, or other farm animals on public roads are transportation equipment and are taxable. (3-31-22)

d. Motor vehicles ~~required~~ mandated to be licensed are taxable even when used exclusively in a farming operation. Motor vehicles purchased, but not licensed, by a farmer for use exclusively in an off-road production activity, such as a feed truck, are not taxable. ~~(3-31-22)~~( )

~~**e.** Other items specifically identified as taxable in Rule 079 of these rules. (3-31-22)~~

~~**10. Exemption Certificate**. Farmers or ranchers who wish to purchase goods that qualify for this exemption without paying sales tax need to complete an exemption certificate. See Rule 128 of these rules. (3-31-22)~~

04. Farmers. When farmers sell their grain, livestock, and other horticultural products for resale or processing, the sale isn't taxable if the buyer provides a properly executed exemption certificate to the farmer. When farmers sell directly to consumers or users, they will obtain a seller's permit, collect sales tax, and pay the tax on those sales to the Tax Commission. ( )

084. CONTAINERS RETURNABLE/NONRETURNABLE ~~(RULE 084)~~.
Sections 63-3622, 63-3620E, Idaho Code

01. Container. A container encloses or will enclose tangible personal property which is sold at wholesale or retail. A container may be comprised of one (1) or more components. Items used as shipping supplies which ~~do not~~ don't enclose the product are not considered to be containers. ~~Example: Cartons of canned goods are placed on a pallet. Shrink wrap is used to bind the cartons to the pallet. A shipping address label is affixed to the shrink wrap. The container includes the cans in which the goods are enclosed; the cartons in which the canned goods are placed; and the shrink wrap and pallet which enclose the cartons. The address label is not part of the container.~~ ~~(3-31-22)~~( )

~~**02. Containers Exempt from Tax**. The following containers are exempt from sales or use tax: (3-31-22)~~

~~**a.** Nonreturnable containers purchased by a retailer or wholesaler who places the contents in the container and sells the contents with the container at retail or wholesale, including cans, barrels, boxes, cartons, grocery sacks, disposable soft drink cups and lids, and other to-go fast food containers. (3-31-22)~~

~~**b.** Returnable containers when the container, along with the contents, is sold at retail if the fee for the container is separately stated, including returnable beer kegs, returnable barrels, and returnable pallets. (3-31-22)~~

~~**c.** Returnable containers when sold back to retailers or manufacturers for refilling. (3-31-22)~~

~~**d.** Returnable or nonreturnable containers when sold with contents that are exempted from the tax, regardless of whether or not the container is separately billed, including containers for prescription drugs, and oxygen or acetylene cylinders, when the use of the gases qualifies for the production exemption. (3-31-22)~~

0~~3~~2. Taxable Containers. Containers subject to sales and use tax include containers used by persons who are providing a service rather than selling a product~~, such as plastic clothing bags purchased by dry cleaners~~. ~~(3-31-22)~~( )

0~~4~~3. Supplies. Shipping, selling, or distribution supplies are not considered to be containers and are taxable when purchased by the shipper, seller, or distributor, such as: (3-31-22)

a. Shipping pallets and lumber stickers when not banded or shrink wrapped to the product to be sold, thereby not becoming a part of the container. (3-31-22)

b. Banding or binders used to secure goods to transportation equipment. (3-31-22)

c. Price stickers and address labels affixed to containers that ~~do not~~ don't provide any product information such as weight, quantity, nutritional value, or other necessary product description. ~~See Rule 042 of these rules.~~ ~~(3-31-22)~~( )

~~**d.** Example: Plywood is wrapped with lumber wrap. The bundles are rested on pallets for shipping. In this example the lumber wrap is the only container. As the bundles are not enclosed onto the pallet, the pallet is not a container and is instead a taxable shipping supply subject to the tax.~~ ~~(3-31-22)~~

04. Examples. Available at Sales and Use Tax Rules Examples. ( )

085. SALES TO AND PURCHASES BY NONPROFIT ORGANIZATIONS ~~(RULE 085)~~.
Sections 63-3622, 63-3622O, Idaho Code

~~01.~~ ~~In General~~. The Sales Tax Act ~~does not~~ doesn't provide any general exemption for~~,~~ charitable or nonprofit organizations, corporations, associations, or other entities. Specific statutory provisions provide exemptions for some charitable organizations. Unless an exemption is clearly granted to a specific organization or to specific sales or purchases by a specific organization or a class of organization, no exemption applies. Special rules apply to religious organizations. See ~~Rule~~ Section 086 ~~of these rules~~. ~~(3-31-22)~~( )

~~**02. Educational Institutions**. Sales to and purchases made by non-profit educational institutions, as defined in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes.~~ ~~(3-31-22)~~

~~**03. Health Related Entities**. Sales to and purchases made by the specific health related entities listed in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes. Health related organizations not named are not entitled to any exemption from sales and use taxes as a health related entity.~~ ~~(3-31-22)~~

~~**04. Hospitals**. In addition to the health related entities listed in Section 63-3622O, Idaho Code, hospitals which are nonprofit institutions licensed for the care of ill persons are exempt. To qualify for the exemption the hospital needs to be a facility defined in Section 39-1301(a), Idaho Code, and licensed as provided in Chapter 13, Title 39, Idaho Code, or an equivalent law in another state. Hospitals operated for profit do not qualify for this exemption, nor do nursing homes, clinics, doctors' offices, or similar facilities unless the organization qualifies for an exemption under Section 63-3622O, Idaho Code.~~ ~~(3-31-22)~~

~~**05. Idaho Foodbank Warehouse, Inc**. The Idaho Foodbank Warehouse, Inc. is a nonprofit corporation which gathers food and food products at one (1) central location for distribution to food banks throughout Idaho. All sales to, donations to, and purchases by the Idaho Foodbank Warehouse, Inc., are exempt from sales and use taxes.~~ ~~(3-31-22)~~

~~**a.** Example 1: The XYC Corporation buys food from a grocer to donate to the Idaho Foodbank Warehouse, Inc. The XYC Corporation pays sales tax on the purchase since they are not purchasing the food for resale and no other exemption applies.~~ ~~(3-31-22)~~

~~**b.** Example 2: The Idaho Food Bank Warehouse, Inc. buys office supplies. No tax is due on the purchase.~~ ~~(3-31-22)~~

~~**06. Food Banks and Soup Kitchens**. Food banks or soup kitchens are nonprofit organizations, other than the Idaho Foodbank Warehouse, Inc., which, as one of their regular activities, furnish food to others without charge. Sales to, donations to, and purchases of food or tangible personal property used by food banks and soup kitchens other than the Idaho Foodbank Warehouse, Inc. to grow, store, prepare, or serve food are exempt from sales and use taxes. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization. This exemption does not extend to the sale, purchase, or use of licensed motor vehicles by food banks or soup kitchens.~~ ~~(3-31-22)~~

~~**a.** Example 1: A grocer removes food from their inventory of goods held for resale to donate to a food bank or soup kitchen. The grocer is exempt from the use tax on their cost of the inventory donated.~~ ~~(3-31-22)~~

~~**b.** Example 2: The XYZ Corporation buys food from a grocer to donate to a food bank. The XYZ~~

~~Corporation is not purchasing the food items for resale, and no other exemption from sales tax applies. Sales tax is paid on the purchase.~~ ~~(3-31-22)~~

~~**c.** Example 3: A food bank buys a licensed motor vehicle. The purchase is subject to sales tax because the motor vehicle is not used to grow, prepare, or serve food.~~ ~~(3-31-22)~~

~~**07. Red Cross**. See Rule 094 of these rules.~~ ~~(3-31-22)~~

~~**08. Nonsale Clothiers**. Nonprofit organizations, one of whose primary functions is to provide clothing to the needy without charge, may purchase the clothing without paying tax. Only clothing qualifies for the exemption. Other purchases by the organization are taxable. Clothing may also be removed from a resale inventory and donated to these organizations exempt from use tax. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization.~~ ~~(3-31-22)~~

~~**a.** Example 1: A department store removes clothing from resale merchandise to donate to a nonprofit, nonsale clothier. The store is exempt from the use tax on the cost of the inventory donated.~~ ~~(3-31-22)~~

~~**b.** Example 2: A nonprofit, nonsale clothier buys clothing and bed sheets from a department store to give to the needy. No tax is due on the clothing, but the store charges the organization sales tax on the bed sheets.~~ ~~(3-31-22)~~

~~**09. Exemption Certificate**. The organizations listed in this rule may make purchases without paying sales tax to the vendor by completing an exemption certificate. See Rule 128 of these rules.~~ ~~(3-31-22)~~

~~**10. Literature**. The sale, purchase, use, or other consumption of literature, pamphlets, periodicals, tracts, books, tapes, audio CDs, and other literature which is produced in a machine readable format that are both published and sold by an entity qualified under Section 501(c)(3) of the Internal Revenue Code are exempt from the tax if no part of the net earnings benefits any individual or shareholder.~~ ~~(3-31-22)~~

~~**11. Sales by Nonprofit Organizations**. An exemption from sales tax on sales to one of the foregoing entities does not constitute an exemption from the requirements to collect and remit tax when the entity makes taxable sales to buyers not exempt from tax. When an exempt organization qualifies as a retailer the organization is to register with the Commission, obtain a seller's permit, and collect and remit sales taxes on sales as defined in Section 63-3612, Idaho Code, in the same manner and in accordance with the same statutes and rules which govern all other retailers in the state. There are two (2) exceptions to this rule.~~ ~~(3-31-22)~~

~~**a.** Sales of places to sleep by the Idaho Ronald McDonald house are exempt from sales taxes.~~ ~~(3-31-22)~~

~~**b.** Sales of admissions by an entity qualified under Section 501(c)(3) of the Internal Revenue Code, or by an organization conducting an exempt function defined in Section 527 of the Internal Revenue Code when:~~ ~~(3-31-22)~~

~~i. The event is not predominately recreational or commercial; and~~ ~~(3-31-22)~~

~~ii. Any entertainment value included in the admission charge is minimal when compared to the charge for admission; and~~ ~~(3-31-22)~~

~~iii. Such entity has paid a sales or use tax on taxable purchases or tangible personal property or services consumed during the event.~~ ~~(3-31-22)~~

~~**12. Senior Citizen Centers**. Sales to certain senior citizen centers are exempt from sales tax. The definition of "senior citizen center" in Section 63-3622O, Idaho Code, is the same as the definition of a "multipurpose senior center" as defined in the Older Americans Act, Title 42, Section 3002, United States Code. To qualify for the exemption the center needs to have been granted exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code. Long-term care facilities do not qualify for this exemption.~~ ~~(3-31-22)~~

13. Free Dental Clinics. Sales to and purchases by organizations providing free dental care to children are exempt from sales and use tax. For the purposes of this exemption "children" means persons under the age of eighteen (18). To qualify for the exemption property or services need to be: (3-31-22)

a. Purchased by an organization whose primary purpose is providing free dental care to children; and (3-31-22)

b. Primarily used by an organization whose primary purpose is providing free dental care to children. (3-31-22)

086. SALES AND PURCHASES BY RELIGIOUS ORGANIZATIONS (RULE 086).
Sections 63-3612, 63-3622, 63-3622J, 63-3622KK, Idaho Code

01. In General. The Sales Tax Act does not provide a general exemption from sales or use tax for religious organizations. Other than the exemptions discussed in this rule, sales and purchases by religious organizations are taxable. (3-31-22)

02. Meals Sold by a Church to Members Only. An exemption is provided by Section 63-3622J, Idaho Code, for the sale of meals by a church to its members at a church function. For the exemption to apply, the meals have to be sold to members only. (3-31-22)

a. If the meal is open to members only, the church can buy the food without paying tax by providing the vendor with a properly completed exemption certificate or, if the church holds an Idaho seller's permit number, it may provide the vendor with a properly completed resale certificate. See Rule 128 of these rules. (3-31-22)

b. If the meal is open to persons other than members of the church, this exemption does not apply. See Subsection 086.03 of this rule. (3-31-22)

c. Food purchased to prepare meals which are not sold by the church, such as meals for resident pastors or for nuns living in a convent or associated with a hospital, is taxable. (3-31-22)

03. Incidental Sales by Religious Corporations or Societies. Incidental sales by religious organizations are exempt from sales taxes by Section 63-3622KK, Idaho Code. The exemption applies to sales of tangible personal property and other sales defined as subject to sales tax by the Idaho Code, including taxes imposed on providing hotel/motel and campground accommodations. For the exemption to apply, the following conditions need to be met: (3-31-22)

a. If selling tangible personal property, the goods sold either have been taxed when purchased by the organization or received as a gift. (3-31-22)

b. The proceeds from the sales made by the organization are used exclusively in the programs of the organization which may include any combination of religious worship, education, and recreation. (3-31-22)

c. The sale may not be made to the general public in the open market in regular business competition. (3-31-22)

d. Example 1: A church has a used clothing store. The items sold are not exempt from the sales tax because the store makes sales to the general public in regular competition with similar enterprises. (3-31-22)

e. Example 2: A church holds an annual pancake breakfast in its basement. The meal is advertised and open to the public. If the church pays tax on the breakfast ingredients, it is not required to collect sales tax on the sale of the meals. Although the meal is open to the general public, the church is not in regular competition with other food serving enterprises. (3-31-22)

f. Example 3: A school owned by a religious corporation sells school supplies and meals only to its students. If the school pays tax when it purchases these items, it is not required to collect sales tax on the sales to its students. If, however, the school has a bookstore or cafeteria which is open to the general public, it does collect sales

~~tax.~~ ~~(3-31-22)~~

~~**g.** Example 4: A school owned by a religious corporation sells admissions to its students to attend athletic events through the sale of activity cards, and also sells admissions to the general public. The school will collect sales tax on all admission sales. The sale is open to the general public and is in regular competition with other recreational events to which admissions are charged.~~ ~~(3-31-22)~~

~~**04. Sales of Literature by a Nonprofit Corporation**. Literature which is both published and sold by qualifying nonprofit corporations is exempt from sales tax. Refer to Rule 085 of these rules.~~ ~~(3-31-22)~~

086. – 087. ~~LEASE OR RENTAL OF MOTION PICTURE TELEVISION FILM (RULE 087).~~(RESERVED)

~~Sections 63-3612, 63-3613, 63-3622, Idaho Code~~

~~The sales tax or use tax is not applicable to rentals or leases of motion picture film to theaters or other exhibiting enterprises where admission to the showing of films is taxable. In the case of radio and television stations, the purchase of films, tapes or records is exempt.~~ ~~(3-31-22)~~

088. SALE OR PURCHASE OF MATTER USED TO PRODUCE HEAT BY BURNING ~~(RULE 088)~~.

Sections 63-3612, 63-3613, 63-3622, 63-3622G, Idaho Code

01. ~~Scope~~Heating Matter. Matter used to produce heat by burning includes natural gas, liquefied propane, coal, wood, oil, petroleum, and their by-products. The phrase "used to produce heat by burning" means the act of incineration of material in a furnace or similar device for the purpose of raising or maintaining the temperature in an enclosed space, dwelling, or building including a building under construction, and includes heating water and cooking. ~~(3-31-22)~~( )

02. ~~Limitation~~Bulk Sales. ~~The phrase used to produce heat by burning means the act of incineration of materials defined in Subsection 088.01 of this rule in a furnace or similar device for the purpose of raising or maintaining the temperature in an enclosed space, dwelling, or building including a building under construction, and includes heating water and cooking.~~ Heating ~~fuel~~ matter delivered in bulk to a dwelling or building for ~~this~~ the purpose of producing heat by burning and properly identified ~~as such~~ by the ~~vendor in his~~ seller in their books and records, on the delivery ticket, and invoice to the customer, relieves the vendor of the responsibility to obtain a sales tax exemption certificate~~,~~ from the buyer. ~~(3-31-22)~~( )

03. Liquefied Propane. Sales of liquefied propane in units of fifteen (15) gallons or less~~, identified in the vendor's records as cylinder sales, will be~~ is considered to be used to produce heat or for domestic home use by burning ~~as defined in Subsection 088.02 of this rule~~. These sales ~~will not~~ don't require ~~that~~ a properly executed sales tax exemption certificate ~~be obtained~~ from the buyer~~,~~. ~~and is~~These sales are exempt from ~~the~~ tax regardless of the use to which the buyer places the liquefied propane. ~~(3-31-22)~~( )

04. Documentation of Other Exempt Sales. ~~All other s~~Sales of natural gas, liquefied propane (over fifteen (15) gallons), coal, wood, oil, petroleum, and its by-products are taxable, unless ~~specifically~~ exempted or excluded elsewhere in the Sales Tax Act. ~~Such exempted or excluded s~~Sales are documented in the following manner: ~~(3-31-22)~~( )

a. If purchased for resale, the ~~vendor~~ seller obtains a properly executed resale certificate from the buyer. ~~See Rule 128 of these rules.~~ ~~(3-31-22)~~( )

b. If purchased to produce heat or domestic home use by burning ~~as defined in Subsection 088.02 of this rule~~ and ~~not~~ isn't bulk delivered ~~to the customer by the vendor~~, the ~~vendor~~ seller either: ( )

i. ~~o~~Obtains a properly executed exemption certificate from the buyer~~,~~; or ~~requires~~ ( )

ii. Has the buyer to complete a stamped or imprinted statement on ~~the face of the~~ a sales invoice or purchase order containing the following ~~language~~:

This tax exemption statement qualifies if this statement is signed by the buyer and contains all the of the

following information: buyer's name, buyer's address, a Federal Employer Identification Number (EIN) or driver's license number, and state of issue. The statement is;

I certify that the ~~gas I have~~ fuel purchased will be used in a ~~furnace or similar~~ device for the purpose of ~~water heating, cooking, or raising or maintaining the temperature in~~ domestic home use or heating an enclosed space, dwelling, or building. By signing this statement, I understand and know that submitting a false claim can result in tax due, interest, criminal and civil penalties.

~~This tax exemption statement qualifies if this statement is signed by the buyer and the name and address of the buyer is shown on the invoice.~~

~~Any person who signs this certificate with the intention of evading payment of tax is guilty of a misdemeanor.~~

_____
BUYER'S SIGNATURE

( )

~~c.~~ The signature of the buyer on this statement will be in addition to any other signature ~~required~~ on the invoice, receipt, or purchase order. ~~(3-31-22)~~( )

~~e. If the buyer claims an exemption from the tax for reasons other than heat by burning, a properly executed exemption certificate will need to be obtained. See Rule 128 of these rules. (3-31-22)~~

~~**089. BOY SCOUT, GIRL SCOUT AND 4-H GROUP SALES AND PURCHASES (RULE 089).**~~
~~Sections 63-3612, 63-3613, 63-3622, 63-3622GK, Idaho Code~~

~~**01. Sales by Scout and 4-H Groups**. In general, when a Scout or 4-H group makes retail sales to their members or to the public, they are a retailer and need to obtain an Idaho seller's permit number. (3-31-22)~~

~~a. Sales to Members. Tangible personal property sold to members is subject to sales tax, including badges, insignia, uniforms, and magazines. Camp fees are subject to sales tax. Dues charged to members are not taxable. (3-31-22)~~

~~b. Sales by Members. Sales of tangible personal property by members, such as cookies, food, and magazines are taxable. The club is responsible for the collection and remittance of the tax. (3-31-22)~~

~~c. Sales of Animals. Sales of animals in conjunction with a fair or at the Western Idaho Spring Lamb Sale by 4-H or FFA club members are not taxable. (3-31-22)~~

~~**02. Purchases by Scout and 4-H Groups**. (3-31-22)~~

~~a. When a fee is charged to members to attend a camp, the food for the camp may be purchased by the club without paying tax. The club provides the retailers of the food a properly completed resale certificate. See Rule 128 of these rules. (3-31-22)~~

~~b. Other tangible personal property purchased for resale to members of the club or to the public may be purchased without tax as in Subsection 089.02.a. of this rule. (3-31-22)~~

~~c. Materials and supplies purchased by the club for its own use are taxable. The club pays tax to the vendor. (3-31-22)~~

089. – 090. ~~GAS, WATER, ELECTRICITY DELIVERED TO CUSTOMERS (RULE 090).~~(RESERVED)
~~Section 63-3622F, Idaho Code~~

~~**01. In General**. Gas, water and electricity delivered to customers includes those products of public or~~

~~private utility service or user's cooperative or similar organizations when sold to customers for the customer's use.~~ ~~(3-31-22)~~

~~**02. Telephone Service**. Electricity includes the dial tone for telephone utility service.~~ ~~(3-31-22)~~

091. SALES TO AMERICAN INDIAN~~S~~ TRIBAL MEMBERS ~~(RULE 091)~~.

01. Sales to American Indians. American Indians make sales tax free purchases if these purchases are made within the boundaries of an American Indian Reservation. The retailer will retain documentation supporting the fact that a buyer is an enrolled member of an American Indian ~~t~~Tribe. Presentation of an identification card issued by one (1) of the American Indian tribes will be acceptable for this purpose. ~~(3-31-22)~~( )

02. Records. The retailer will maintain records in support of these exempt sales. Any of the following methods are accepted by the Tax Commission: ~~(3-31-22)~~( )

a. Recording of the buyer's name and number from the buyer's tribal identification card on the sales slip. (3-31-22)

b. Recording the name and number from the buyer's tribal identification card on the cash register tape beside the record of the purchase. (3-31-22)

c. Completion of an exemption certificate recording the number from the buyer's tribal identification card. (3-31-22)

03. Sales of Motor Vehicles to Indians. See ~~Rule~~ Section 107 ~~of these rules~~. ~~(3-31-22)~~( )

092. OUT-OF-STATE SALES ~~(RULE 092)~~.
Sections 63-3612, 63-3613, 63-3622Q, Idaho Code

~~**01. Out-of-State Sales**. Section 63-3622Q, Idaho Code, does not distinguish between purchases made by Idaho residents and nonresidents. The purchase of tangible personal property for delivery by the seller outside the state through either a common carrier, U.S. mails or seller's delivery service is not subject to Idaho sales tax.~~ ~~(3-31-22)~~

~~**02. Records**.~~The seller will maintain records to support the ~~exemption claimed in this fashion. Shipping data in the form of bills of lading, postal receipts or invoices setting forth the~~ out-of-state ~~destination with adequate supporting documentation will be accepted as evidence of the~~ sales exemption. ~~(3-31-22)~~( )

093. ~~SALES AND USE TAX LIABILITY OF FEDERAL AND STATE CREDIT UNIONS, NATIONAL AND STATE BANKS, AND FEDERAL AND STATE SAVINGS AND LOAN ASSOCIATIONS (RULE 093).~~(RESERVED)
~~Sections 26-2138, 26-2186, 63-3612, 63-3613, Idaho Code~~

~~**01. Purchases by Credit Unions**. Purchases by Federal Credit Unions are exempt from sales and use tax under the provisions of 12 U.S.C. 1768. Purchases by state-chartered credit unions are exempted from sales and use tax by Section 26-2138, Idaho Code, and purchases by Idaho corporate credit unions are exempted from sales and use tax by Section 26-2186, Idaho Code.~~ ~~(3-31-22)~~

~~**02. Purchases by Banks and Savings and Loan Associations**. Purchases by national and state banks, as well as federal and state savings and loan associations, are subject to sales and use tax.~~ ~~(3-31-22)~~

~~**03. Sales by Credit Unions, Banks, Savings and Loan Associations**. When acting as a retailer, all retail sales made by credit unions, banks, and savings and loan associations are subject to sales tax.~~ ~~(3-31-22)~~

094. EXEMPTIONS ON PURCHASES BY POLITICAL SUBDIVISIONS, SALES BY THE STATE OF IDAHO, ITS DEPARTMENTS, INSTITUTIONS, AND ALL OTHER POLITICAL SUBDIVISIONS ~~(RULE 094)~~.

Sections 63-3609, 63-3612, 63-3613, 63-3622, 63-3622O, Idaho Code

~~**01. In General**. This rule governs application of the sales and use tax to governmental instrumentalities. As used herein, the term governmental instrumentalities means the state of Idaho, its agencies, departments or institutions and all political subdivisions of the state of Idaho; but does not include other states, their agencies, departments, or institutions and political subdivisions. (3-31-22)~~

~~**02. Extent of Exemptions**. The state and all its agencies, departments and institutions are exempt from the sales and use tax. This exemption does not extend to corporations, the stock of which is owned in whole or in part by the state, nor does it extend to private agencies to which the state contributes funds. The exemption only applies in the case of purchases made directly by the state, its agencies, departments, and institutions. (3-31-22)~~

~~**03. Political Subdivisions**. Political subdivisions of this state are also exempt from payment of the sales and use tax. A political subdivision is a governmental organization which embraces a certain territory organized for public advantage and not in the interest of private individuals or classes to which has been delegated certain functions of state government. In addition to this, a political subdivision has the power to levy taxes. Included within the definition of political subdivisions would be all counties, municipalities, townships, towns and villages, public school districts, cemetery maintenance districts, fire protection districts, local improvement districts and irrigation districts. Canal companies and ditch companies do not come within the scope of this exemption. (3-31-22)~~

~~**04. Purchases by Contractors**. Contractors are consumers under Idaho tax law. Purchases made by contractors are taxable even though they are to be applied to use on a state or political subdivision construction project. (3-31-22)~~

0~~5~~1. Sales by Political Subdivisions. Sales by the state~~, its departments or institutions, counties, cities, school districts~~ or any political subdivision are subject to sales tax which is to be collected by the political subdivision. If taxable sales are made, a permit is ~~required~~ mandatory. This permit is to be obtained by each sales outlet or by the office at which regular and current sales records are maintained. ~~Examples of t~~Taxable sales ~~are all~~ include sales of tangible personal property, admission charges, fees to use recreational facilities, recreational program fees, copies of documents for which a fee ~~is not~~ isn't set by Idaho Code and garbage service when receptacles or dumpsters are provided by the service and part of the fee represents rental of the receptacle. ~~(3-31-22)~~( )

a. Taxable sales. Taxable sales of tangible personal property ~~will~~ include sales of: code books; books sold by library, book fairs, etc.; maps; crime prevention signs; calendars; cafeteria sales to employees or the public; office supplies or any sale to employees; concession stands; trees, shrubs, or bedding plants; items sold to prisoners, such as cigarettes, candy, pop, etc., through vending machines ~~(tax is to be computed on one hundred seventeen percent (117%) of acquisition cost if the machine is operated by the political subdivision)~~; chemicals for noxious weeds; unclaimed property; chemicals for pest control; surplus property-assets; gravel, culverts, or pipe; uniforms to employees; equipment rentals with no operator; grave markers; rental of other property, golf carts, swimsuits; and nonresident or resident library cards. See ~~Rule~~ Section 058 ~~of these rules~~. ~~(3-31-22)~~( )

b. Admission charges. Taxable admission charges ~~will~~ include ~~those~~ fees for using golf courses and swimming pools, for attending athletic events, concerts, fireworks displays, and fund-raising events. ~~(3-31-22)~~( )

c. Use of facilities for recreation. Taxable use of facilities for a recreational purpose ~~will~~ include receipts from the use of park structures, picnic tables, fair grounds, rodeo grounds, gymnasiums, ball parks, snowmobile areas and campground areas. Exception: If an individual or organization rents or leases one (1) of these facilities and charges admission to each person using the facility, tax ~~will not be required~~ shouldn't be charged on ~~its~~ the rental or lease of the facility. However, the individual or organization will ~~be required to register and~~ apply for a seller's permit number, under which the tax on the admission will be reported and paid. ~~See Rule 030 of these rules.~~ ~~(3-31-22)~~( )

d. Recreation program fees. Fees to participate in recreational programs are taxable. Some ~~examples~~ of these programs are city recreational programs in softball, baseball, basketball and football. If instruction is included in such activities as tennis, golf, or swimming, the tax ~~will not be~~ isn't due on the separately stated instructional portion of the total fee. If not separately stated, the entire fee is taxable. ~~(3-31-22)~~( )

e. Garbage service. Garbage service is taxable on that portion of the total charge which is the rental of the receptacle such as a dumpster. If the statement for service includes the rental of the dumpster or other receptacle but the rental charge ~~is not~~ isn't separately stated, the entire cost of the service is taxable. ~~(3-31-22)~~( )

~~**f.** The examples cited above are not inclusive. (3-31-22)~~

0~~6~~2. Federal Government. Sales to and purchases by the federal government and its instrumentalities are not subject to Idaho sales or use taxes except as provided by federal laws or regulations. Federal law also prevents the state of Idaho from imposing sales tax on any sales by the federal government or its instrumentalities. For purposes of Idaho sales and use tax, the American Red Cross is an instrumentality of the federal government. (3-31-22)

0~~7~~3. Other States. Sales to and purchases by states OTHER than Idaho and their political subdivisions are taxable if delivery occurs in ~~this state~~ Idaho. ~~(3-31-22)~~( )

095. MONEY-OPERATED DISPENSING EQUIPMENT ~~(RULE 095)~~.
Sections 63-3612, 63-3613, 63-3622, 63-3622II, Idaho Code

01. Money-Operated Dispensing Equipment. ~~The sale, purchase, lease, or rental of money-operated dispensing equipment is exempt from tax if the equipment is only used to dispense a tangible product, amusement, or service on which a retail sales tax is imposed by the state of Idaho.~~ ~~(3-31-22)~~

~~**a.**~~ Money-operated ~~dispensing~~ equipment that dispenses tangible personal property includes equipment operated by a debit or credit card. ~~(3-31-22)~~( )

02. Parts, Kits, or Supplies. This exemption ~~does not~~ doesn't apply to parts, kits, or supplies used to repair, refurbish, or upgrade the dispensing equipment. ~~Refer to Section 63-3622II, Idaho Code.~~ ~~(3-31-22)~~( )

096. IRRIGATION EQUIPMENT AND SUPPLIES ~~(RULE 096)~~.
Sections 63-3622W, 63-3622HH, Idaho Code

01. Agricultural Irrigation. ~~The Sales Tax Act exempts all irrigation equipment and supplies which are used directly for agricultural irrigation.~~ To qualify for the exemption, the irrigation equipment or supplies need to be used directly and primarily for agricultural irrigation purposes. If the use of the equipment or supplies is only incidental or only indirectly related to the agricultural irrigation process, ~~the exemption will not~~ tax apply~~y~~ies. ~~Examples~~ These include: ~~(3-31-22)~~( )

a. An off-highway motorbike or all-terrain vehicle, ATV, used to transport men or equipment is indirectly related to the irrigation process. (3-31-22)

b. Irrigation boots worn to protect the irrigator are incidental to the process and are taxable. (3-31-22)

02. Nonagricultural Irrigation Equipment or Supplies. Irrigation equipment or supplies used for any purpose other than agriculture ~~are not exempt. For example~~, such as irrigation pipelines or sprinkler systems used on a golf course, hobby farm, residence, and vacation home, are taxable. ~~(3-31-22)~~( )

03. Real Property Improvements. The exemption applies regardless of whether the equipment becomes a part of real estate. It ~~is not~~ isn't necessary to distinguish between pipeline which retains its identity as tangible personal property and pipeline which may become incorporated into real property such as buried mainline pipe. ~~(3-31-22)~~( )

04. Title to Equipment. The exemption applies regardless of whether the equipment is installed by a farmer, a contractor, or a subcontractor. The incidence of tax ~~will not~~ won't turn upon the determination of whether title to the irrigation equipment passed at the time of sale or ~~subsequent to~~ after installation. ~~(3-31-22)~~( )

~~**05. Exemption Certificate**. A buyer's right to the exemption is documented by the use of an exemption certificate in the manner prescribed by Rule 128 of these rules.~~ ~~(3-31-22)~~

097. ~~YARD SALES (RULE 097).~~(RESERVED)
~~Sections 63-3622, 63-3622K, Idaho Code~~

~~**01. In General.** Tangible personal property may be sold tax exempt at a home yard sale if the yard sale meets the qualifications specified in this rule. A home yard sale is characterized by the following:~~ ~~(3-31-22)~~

~~**a.** The sale is of short duration lasting no more than a few days.~~ ~~(3-31-22)~~

~~**b.** The seller is not in the business of regularly selling the same or similar property as that which is offered for sale at the yard sale.~~ ~~(3-31-22)~~

~~**c.** The items offered for sale at the yard sale are not items which are specifically purchased for the purpose of reselling them.~~ ~~(3-31-22)~~

~~**d.** The items offered for sale are owned by the seller, no consignment sales may be made.~~ ~~(3-31-22)~~

~~**e.** The sale is conducted on the residential premises of the seller.~~ ~~(3-31-22)~~

~~**02. Exempt Yard Sales**. An individual seller may only conduct two (2) exempt yard sales in the course of one (1) calendar year. Two (2) or more sellers may join together to conduct a single yard sale which will be considered to be a sale conducted by both such sellers. A home yard sale will include sales referred to as garage sales, moving sales, and other similar such sales if the prerequisites of this rule are otherwise met.~~ ~~(3-31-22)~~

098. FOREIGN DIPLOMATS ~~(RULE 098)~~.
Sections 63-3610, 63-3622, 63-3622O, Idaho Code

01. In General. The United States Government grants immunity from state taxes to diplomats from certain foreign countries. The diplomat is issued a federal tax exemption card by the U.S. Department of State. The cards are nontransferable and bear a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. (3-31-22)

02. Federal Tax Exemption Cards. Federal tax exemption cards list all restrictions on tax exemptions on the face of the card, including whether or not the card privileges extend to both official and personal purchases. (3-31-22)

03. Documentation. A retailer documents exempt sales to a foreign diplomat by: (3-31-22)

a. Retaining a copy of the front and back of the federal tax exemption card to support the exempt sale; or (3-31-22)

b. Recording for their permanent record the name of the bearer, the mission represented, the federal tax exemption number displayed on the card, the date of expiration, and the nature of the exemption granted to the diplomat. (3-31-22)

099. OCCASIONAL SALES ~~(RULE 099)~~.
Sections 63-3610, 63-3622K, ~~63-3622HH,~~ Idaho Code

01. Occasional Seller. ~~Sales of tangible personal property by an occasional seller are exempt from sales and use tax. In order to qualify as an occasional sale, the seller cannot make more than two (2) sales of tangible personal property in a twelve (12) month period, nor hold himself out as engaged in the business of selling tangible personal property.~~ An occasional seller of tangible personal property will provide a written statement to the buyer if requested. ~~(3-31-22)~~( )

~~**a.** If the sale does not qualify as an occasional sale, the seller is a retailer and will collect and remit sales tax in the same manner as any other seller. See Section 63-3610, Idaho Code.~~ ~~(3-31-22)~~

~~b~~a. ~~Proof of occasional sale. An occasional seller of tangible personal property will provide a written statement to the buyer if requested. An occasional seller of a transport trailer or office trailer may use Form ST-108TR to document his occasional sale claim. For occasional sales of other tangible personal property, the buyer obtains a written statement that has the seller's name, address, date, and signature from the seller verifying that the seller is not a retailer and has made no more than one (1) other sale of tangible personal property within the last twelve (12) months. The buyer will retain the occasional sale statement provided by the seller as evidence that the purchase of the tangible personal property is not subject to use tax.~~The written statement should include the following: ~~(3-31-22)~~( )

i. Seller's name; ( )

ii. Seller's address; ( )

iii. Date; ( )

iv. Description of items sold; ( )

v. A statement that the seller isn't a retailer and has made no more than one (1) other sale of tangible personal property within the last twelve (12) months; and ( )

vi. Seller's signature. ( )

b. The buyer will retain the seller's statement as evidence that the purchase of tangible personal property isn't subject to use tax. ( )

c. Sales arranged by a third party are taxable. If any sales agent, licensed or unlicensed, participates in the sale of tangible personal property, the sale is taxable. ~~See Rule 020 of these rules.~~ ~~(3-31-22)~~( )

~~**02. Change in the Form of Doing Business.** A change in the form of doing business qualifies for an occasional sale exemption when the ultimate ownership of the property is substantially unchanged. Example: The incorporation of a partnership qualifies for an occasional sale exemption when substantially all of the property owned by the partnership is transferred to the corporation, and the stockholders of the corporation own substantially the same proportion of the corporation's stock as they owned in the partnership interest as partners. (3-31-22)~~

~~**03. Bulk Sale -- Sale of an On-Going Business.** The sale of substantially all of the operating assets of a business or of a separate division, branch, or identifiable segment of a business qualifies for the occasional sale exemption if: (3-31-22)~~

~~**a.** The buyer continues the same type of business operation; and (3-31-22)~~

~~**b.** Prior to the sale the income and expenses attributable to the separate division, branch, or identifiable segment can be determined from the accounting records and books. (3-31-22)~~

~~**c.** Example: Corporation X sells its entire wood products division to Corporation Y, which continues to operate it in substantially the same form. The transaction qualifies for an occasional sale exemption. (3-31-22)~~

~~**04. Sale of a Motor Vehicle Between Family Members.** Sales of motor vehicles between family members related within the second degree of consanguinity, blood relationship, qualify for the occasional sale exemption but only if the seller paid a sales or use tax when the motor vehicle was acquired. (3-31-22)~~

~~**a.** Example 1: A brother sells his automobile to his sister. The brother purchased the car from an Idaho dealer and paid Idaho sales tax on the original purchase. No tax applies to the sale of the vehicle to the sister. (3-31-22)~~

~~**b.** Example 2: A mother sells her automobile to her son for five thousand dollars ($5,000). The mother is an Oregon resident and did not pay a sales or use tax when she purchased the automobile. The son, who is a resident of Idaho, pays Idaho use tax on the five thousand dollar ($5,000) purchase price of the automobile.~~

(3-31-22)

05. Transfers Between Related Parties. The transfer of capital assets between related parties qualifies for an occasional sale exemption, but only if the person transferring the asset has paid a sales or use tax when the asset was acquired. Exempt transfers between related parties include: capital assets transferred in and out of businesses by owners, partners, shareholders stockholders, when the transfer is made only in exchange for equity in the business, and capital assets transferred between a parent corporation and its subsidiary, if the parent owns at least eighty percent (80%) of the subsidiary, and transfers between subsidiary corporations with a common parent, if the parent owns at least eighty percent (80%) of both, and if the transfers are made only in exchange for stock or securities. (3-31-22)

a. Example: Two (2) individuals form a partnership. Each contributes a car in exchange for a percentage of ownership in the business. If each partner paid sales tax when he purchased his vehicle, no sales tax applies to the transfer of the vehicle into the partnership. (3-31-22)

b. Example: Three (3) individuals are equal partners in a construction business. They dissolve the partnership, and each person takes one third (1/3) of the capital assets as his share of the equity in the business. If tax was paid on the assets when they were purchased by the partnership, sales tax does not apply to the transfer of the assets from the partnership to the co-owners. (3-31-22)

c. Example: A corporation-owned car is given to a shareholder as a bonus for special accomplishments. There is no change in the recipient's shareholdings. The shareholder pays tax on the bonus based on the value of the car, regardless of whether the corporation paid tax when the car was purchased. The exemption does not apply because the transfer of the car did not change the shareholder's equity. (3-31-22)

06. Sales and Rentals to Related Parties. The sale of a capital asset to a related party qualifies for the occasional sale exemption, but only if the seller has paid sales or use tax when the asset was acquired or if the seller acquired the asset from a related party who paid sales tax on acquisition of the asset. Rentals and leases of capital assets between related parties will also qualify for the occasional sale exemption, but only if the initial related party paid sales tax upon acquisition of the asset. If the initial buyer does not pay sales or use tax upon the purchase of a capital asset and then leases the asset to a related party, the lessor will collect and remit sales tax on the lease payments. The lease payments will also represent a reasonable rental value for the asset. Exempt transactions between related parties include sales, rentals, and leases of capital assets other than aircraft, boats and vessels, snowmobiles, off-highway motorbikes, and recreational vehicles, as defined by Section, 63-3622HH, Idaho Code, such as the following: (3-31-22)

a. Sales to family members, but only if all parties to the sale are related within the second degree of consanguinity, relationship by blood, or affinity, relationship by marriage, i.e., spouses, children, parents, brothers, sisters, or grandparents. Example: A father and son are the stockholders of Corporation A. This corporation sells a business asset to Proprietorship B, which is owned by the son's grandfather. This sale is exempt as long as Corporation A paid sales tax when the asset was acquired. (3-31-22)

b. Sales in which the new owners are identical to the prior owners. Example: Corporation B owns one hundred percent (100%) of Corporation A. If the initial buyer paid tax when it acquired an asset, it may sell the asset to the other without tax. Example: John Doe owns one hundred percent (100%) of a corporation. He buys a truck and pays sales tax. He later sells the truck to his corporation. No tax applies to the sale of the truck to the corporation. Example: A and B each own fifty percent (50%) of a partnership. The partnership buys a capital asset and pays sales tax to the vendor. The partnership immediately leases the asset to Corporation C. A owns ten percent (10%) of Corporation C and B owns ninety percent (90%) of Corporation C. Since the percentages of ownership of the partnership and the corporation are not identical, the lease transaction does not qualify for the occasional sale exemption. The partnership seeks a refund of the sales tax paid on acquisition of the asset and collects and remits sales tax on the lease payments. (3-31-22)

07. Motor Vehicles. Sales of licensed motor vehicles are not considered occasional sales and are taxable, except under the provisions of Subsections 099.02 through 099.06 of this rule. If a motor vehicle transfer qualifies for an exemption under Subsections 099.02 through 099.06 of this rule, the buyer completes an appropriate exemption claim form prior to applying for an Idaho motor vehicle title. See Rule 107 of these rules regarding sales

of licensed motor vehicles that do not qualify as occasional sales and the appropriate exemption claim form. (3-31-22)

082. Sales of by a Business Assets. Also excluded from the category of occasional sales, other than as provided by Subsection 099.06 of this rule, are sales of assets or other items of tangible personal property used in an activity requiring a seller's permit. Sale of assets or other tangible personal property by a business that requires a seller's permit are excluded from the occasional sales exemption. Even though when the item sold is not of the type normally isn't typically sold by the seller in his the regular course of business, the sale is taxable unless another exemption applies. Example: A construction equipment dealership sells its office computer. Even though the seller does not normally sell computers, it collects sales tax on the sale of the computer as the computer is used in a business requiring a seller's permit. (3-31-22)( )

09. Taxable Sales of Aircraft, Boats, and Recreation Related Vehicles. The occasional sale exemptions defined in Subsections 099.01 and 099.06 of this rule do not apply to the sale or purchase of the following: (3-31-22)

a. Snowmobiles, including those required to be numbered as provided by Section 67-7102, Idaho Code. (3-31-22)

b. Off highway motorbikes and dual purpose motorcycles. A dual purpose motorcycle is designed for use off developed roadways and highways, but is also equipped to be legally operated on public roadways and highways. (3-31-22)

c. All-terrain vehicles, ATVs, but not including tractors. A tractor is a motorized vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other farm implements. (3-31-22)

d. Portable truck campers designed for temporary living quarters, but not including pickup shells or canopies that do not have a floor. (3-31-22)

e. Camping, travel, fifth-wheel travel-type trailers and park model recreational vehicles designed to provide temporary living quarters. (3-31-22)

f. Motor homes. (3-31-22)

g. Buses and van type vehicles when converted to recreational use as temporary living quarters and providing at least four (4) of the following facilities: cooking; refrigeration or icebox; self-contained toilet; heating or air conditioning; a portable water supply system including a faucet and sink; and separate one hundred ten to one hundred twenty five (110-125) volt electrical power supply or LP gas supply. (3-31-22)

h. Aircraft, meaning any device which is designed or used for navigation of or flight in the air, except a parachute or other device designed for such navigation but used primarily as safety equipment. See Rule 037 of these rules regarding other exemption provided for aircraft. (3-31-22)

i. Boats or vessels, meaning every description of watercraft used or capable of being used as a means of transportation on water. Example: A nonretailer sells a boat and boat trailer to an Idaho resident. The sale of the boat does not qualify for the occasional sale exemption and is taxable. The sale of the boat trailer may qualify for the occasional sale exemption if the sales price of the boat trailer is separately stated on the bill of sale and an occasional sale affidavit is provided by the seller. (3-31-22)

10. Exempt Sales of Aircraft, Boats, and Recreation Related Vehicles. Sales of aircraft, boats, or recreation-related vehicles under the provisions of Subsections 099.02 or 099.03 of this rule are exempted from the tax. Transfers of aircraft, boats, or recreation-related vehicles under the provision of Subsection 099.05 of this rule are exempted from the tax. The provisions of Subsection 099.04 of this rule apply to the sale of motorized, on-highway recreation-related vehicles. (3-31-22)

11. Exclusion from the Occasional Sale Exemption. Section 63-3622K, Idaho Code, excludes from the occasional sale exemption the use of tangible personal property used to improve real property when such property

~~is obtained, directly or indirectly, from a person in the business of making like or similar improvements to real property. This exclusion applies only to building materials and fixtures that will be incorporated into real property. Sales of construction equipment such as loaders, backhoes, and excavators may still be included within the definition of "occasional sale" if the seller meets all the other requirements of the exemption.~~ ~~(3-31-22)~~

~~**a.** Example. A contractor enters into a contract to fabricate and install a wrought iron gate. The contractor fabricates the gate but prior to installation the building owner decides to install the gate himself and buys it from the contractor. The building owner's purchase does not qualify for the occasional sale exemption.~~ ~~(3-31-22)~~

~~**b.** Example. A contractor has a backhoe that he uses in his contracting business. He sells the backhoe to another contractor. If the seller is not a retailer, as defined by statute, the sale can still qualify as an exempt occasional sale.~~ ~~(3-31-22)~~

03. Yard Sales. Yard sales include sales referred to as garage sales, moving sales, and other similar sales if the requirements of this section are met. ( )

a. Tangible personal property may be sold exempt at a home yard sale if it meets the following requirements: ( )

i. The sale lasts no more than a few days. ( )

ii. The seller isn't in the business of regularly selling the same or similar property as what is sold at the yard sale. ( )

iii. The items offered for sale are not purchased for the purpose of reselling them. ( )

iv. The items offered for sale are owned by the seller. ( )

v. The sale is conducted at the seller's home. ( )

vi. The seller has no more than two (2) yard sales in a calendar year. ( )

b. If two (2) or more sellers jointly hold a single yard sale, it counts as one (1) of the two (2) exempt yard sales for each seller participating. ( )

04. Examples. Available at Sales and Use Tax Rules Examples. ( )

100. PRESCRIPTIONS ~~(RULE 100)~~.
Sections 63-3612, 63-3613, 63-3622, 63-3622N, Idaho Code

~~**01. In General**. Sales tax does not apply to sales of drugs, oxygen, orthopedic appliances, orthodontic appliances, dental prostheses including crowns, bridges, inlays, overlays, prosthetic devices, durable medical equipment, eyeglasses, contact lenses, and certain other medical equipment and supplies specifically named in Section 63-3622N, Idaho Code, when:~~ ~~(3-31-22)~~

~~**a.** Purchased by a practitioner to be administered or distributed to his patients if such practitioner is licensed by the state under Title 54, Idaho Code, to administer or distribute such items, or when;~~ ~~(3-31-22)~~

~~**b.** Purchased by or on behalf of an individual under a prescription or work order issued by a practitioner who is licensed by the state to practice one of the following professions: physician, physician assistant, surgeon, podiatrist, chiropractor, dentist, optometrist, psychologist, ophthalmologist, nurse practitioner, denturist, orthodontist, audiologist, or hearing aid dealer or fitter. Items purchased under the prescription or work order of a person who is not a health care practitioner specifically named in Section 63-3622N(b), Idaho Code, will not qualify for the exemption.~~ ~~(3-31-22)~~

~~**c.** Example: A physician issues a prescription for a wheelchair to a nursing home patient. The nursing home delivers the prescription to a wheelchair retailer and purchases the wheelchair on behalf of the patient. No tax~~

~~applies.~~ ~~(3-31-22)~~

~~**d.** Example: A nursing home purchases wheelchairs for general use in its facility. Since the wheelchairs are not purchased under prescription for a specific patient, sales tax applies.~~ ~~(3-31-22)~~

~~**02. Orthopedic Appliances**. The term orthopedic appliance includes those braces and other external supports prescribed by a practitioner for the purpose of correction or relief of defects, diseases, or injuries to bones or joints.~~ ~~(3-31-22)~~

0~~3~~1. **Documenting Exempt Sales**. The seller keeps the written prescription or work order on file to document ~~the~~ an individual's exemption. Sales made without a prescription or work order are taxable. The seller needs to be able to identify sales which are exempt under prescription from sales which are taxable. ~~(3-31-22)~~( )

a. Refills of prescriptions on file with a seller aren't ~~exempt from~~ taxable. ~~(3-31-22)~~( )

b. Some drugs may be lawfully sold without a prescription. When sold over the counter without a prescription, the drugs are subject to sales tax. When sold under a prescription, the drugs aren't ~~exempt from~~ taxable. ~~(3-31-22)~~( )

0~~4~~2. **Purchases by Practitioners**. A practitioner, who is licensed under Title 54, Idaho Code, to administer or distribute a medical product listed in Section 63-3622N, Idaho Code, may purchase the item exempt from tax ~~by issuing his supplier an exemption certificate required by Rule 128 of these rules~~. Only the medical items named in Section 63-3622N, Idaho Code, which the practitioner is licensed to administer or distribute qualify for this exemption. ~~(3-31-22)~~( )

0~~5~~3. **Purchases by Nursing Homes and For-Profit Hospitals**. The Sales Tax Act ~~does not~~ doesn't provide a general exemption from tax for purchases made by nursing homes and similar facilities or by hospitals operated for profit~~.~~. ~~and a~~As a result, they pay tax on all purchases, unless those items are exempted by Section 63-3622N, Idaho Code. ~~An exemption certificate is completed and provided to the vendor of the exempted items. See Rule 128 of these rules.~~ ~~(3-31-22)~~( )

~~**06. Sale of Eyeglasses, Contact Lenses, and Related Products**. The sale of non-prescription eyeglasses, non-prescription contact lenses and related products, such as carrying cases, non-prescription sunglasses, and cleaning solutions is taxable.~~ ~~(3-31-22)~~

~~**a.** The sale of eyeglasses and their frames, lenses, nose pieces, hinges, and related eyeglass component parts required as part of a finished pair of eyeglasses sold under a prescription is exempt from sales tax on and after July 1, 2015.~~ ~~(3-31-22)~~

~~**b.** The sale of prescription contact lenses on and after July 1, 2016, is exempt from sales tax.~~ ~~(3-31-22)~~

~~**07. Dental and Orthodontic Appliances**. The sale or purchase of dentures, partial plates, dental bridgework, orthodontic appliances, and related parts for such items by a dentist, denturist, orthodontist or other practitioner is not a taxable sale.~~ ~~(3-31-22)~~

04. Examples. Available at Sales and Use Tax Rules Examples. ( )

101. MOTOR VEHICLES AND TRAILERS USED IN INTERSTATE COMMERCE ~~(RULE 101)~~.
Sections 49-123, 63-3612, 63-3613, 63-3622, 63-3622R, Idaho Code

01. In General. An exemption ~~is provided~~ from the sales and use tax is provided for the sale or lease of motor vehicles and trailers to commercial or private carriers to be substantially used in interstate commerce. This exemption is commonly called the International Registration Plan (IRP) Exemption. Commercial or private carriers are in the business of transporting persons or commodities owned by the carrier or another. Farm vehicles or noncommercial vehicles as defined by Section 49-123, Idaho Code, ~~do not~~ don't meet the requirements of ~~the IRP~~ this exemption. ~~(3-31-22)~~( )

~~**02. Motor Vehicles**. To qualify for the exemption, a buyer will: (3-31-22)~~

~~**a.** Immediately register the vehicle with a maximum gross weight of over twenty-six thousand (26,000) pounds; (3-31-22)~~

~~**b.** Register the vehicle under the International Registration Plan (IRP); and (3-31-22)~~

~~**c.** Operate the vehicle in a fleet of one (1) or more vehicles registered under the International Registration Plan (IRP) or a similar proportional registration system with a minimum of ten percent (10%) of the fleet miles operated outside the state of Idaho. (3-31-22)~~

~~**03. Trailers**. An exemption is provided from the sales or use tax for trailers when the buyer will: (3-31-22)~~

~~**a.** Immediately place the trailer in a fleet of vehicles registered under the International Registration Plan (IRP); and (3-31-22)~~

~~**b.** The trailer will be part of a fleet of vehicles with a minimum of ten percent (10%) of the fleet miles operated outside the state of Idaho under the International Registration Plan (IRP). (3-31-22)~~

~~**04. Title or Base Plate**. The exemption applies whether the motor vehicles and trailers are titled or base plated in Idaho or another state or nation. (3-31-22)~~

0~~5~~2. **Documentation**. Buyers claiming this exemption provide the seller or lessor with a properly completed Exemption Certificate. When a vehicle qualifying for this exemption is purchased from a retailer who ~~is not~~ isn't registered to collect Idaho sales tax, the buyer and provides a properly completed exemption certificate to the county assessor or Department of Transportation when titling or registering the vehicle in Idaho. See ~~Rule~~ Section 128 ~~of these rules~~. ~~(3-31-22)~~( )

0~~6~~3. **Repair Parts and Supplies**. The exemption ~~does not~~ doesn't apply to parts, supplies, or other tangible personal property purchased by persons engaged in interstate commerce. Purchases of glider kits as defined by Section 49-123, Idaho Code, will qualify if they are assembled into glider kit vehicles that will be immediately registered under the International Registration Plan (IRP). ~~(3-31-22)~~( )

~~**07. Failure To Meet Interstate Mileage Requirement**. The use of a fleet of trucks and trailers, purchased exempt under the IRP exemption provided by Section 63-3622R, Idaho Code, will become taxable as of June 30 of any year in which the fleet's out of state mileage is less than ten percent (10%) of the total fleet mileage during the previous four (4) quarters. (3-31-22)~~

102. LOGGING ~~(RULE 102)~~.
Sections 63-3605C, 63-3622D, 63-3622HH, 63-3622JJ, 63-3622KK (1)(d), Idaho Code

01. In General. The Sales Tax Act provides an exemption from sales and use taxes for certain tangible personal property used in logging activities. The provisions of this ~~rule~~ section are based on the usual methods of doing business in ~~this~~ the logging industry. Specific factual differences in the way a specific taxpayer ~~may~~ conducts ~~his~~ business can result in determinations different from those stated in this ~~rule~~ section. Since some equipment may be used for more than one (1) purpose, determinations of taxability will be made based upon the primary use of the equipment. ~~(3-31-22)~~( )

02. Real Property. The logging exemption applies only to tangible personal property. It ~~does not~~ doesn't apply to real property or to tangible personal property purchased for the purpose of becoming an improvement or fixture to real property. See ~~Rules 010 and~~ Section 067 ~~of these rules~~ for a definition of real property. ~~(3-31-22)~~( )

03. Property Used in Logging Operations. The logging exemption applies to tangible personal property primarily used in a logging activity without regard to the primary business activity of the person performing

the logging. ~~For example, a contractor building a road for the Forest Service may claim the logging exemption when purchasing equipment and supplies primarily used to remove the timber from the right-of-way if the timber is resold, even though logging is not the contractor's primary activity.~~ ~~(3-31-22)~~( )

04. Logging Process Begins and Ends. The logging process begins when forest trees are first handled by the logger at the site where such an operation occurs. The logging process ends when the product is placed on transportation vehicles at the loading site, ready for shipment. (3-31-22)

~~**05. Equipment and Supplies**. Equipment and supplies used or consumed primarily and directly in the logging process and which are necessary or essential to perform the operation. To qualify, the logging use must be the primary use of the equipment and supplies. Examples include:~~ ~~(3-31-22)~~

~~**a.** Chain saws and tree harvesters.~~ ~~(3-31-22)~~

~~**b.** Skidders, tower-skidders, skidding cables, or chokers.~~ ~~(3-31-22)~~

~~**c.** Log loaders and log jammers which are not licensed motor equipment.~~ ~~(3-31-22)~~

~~**d.** Repair parts, lubricants, hydraulic oil, and coolants which become a component part of logging equipment.~~ ~~(3-31-22)~~

~~**e.** Fuel, such as diesel, gasoline, and propane consumed by equipment while performing exempt logging activities.~~ ~~(3-31-22)~~

0~~6~~5. Directly Used. Directly used, as applied to logging, means the performance of any of the following functions when such functions occur between the point at which the logging operation begins and the point at which the operation ends, as defined in Subsection 102.04 ~~of this rule~~: ~~(3-31-22)~~( )

a. The performance of a function in the logging process that effects a physical change in the property being logged so as to render the property more marketable. (3-31-22)

b. The performance of a function which occurs simultaneously with and which is an integral part of and necessary to a function which effects a physical change in the property being logged rendering it more marketable. (3-31-22)

c. The performance of a function which is an integral and necessary step in a continuous series of functions which effect a physical change in the property being logged rendering it more marketable. (3-31-22)

d. The performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-31-22)

0~~7~~6. Not Included in Logging Exemption. ~~Generally~~ Along with tangible personal property referenced in Idaho Code, the logging exemption ~~does not~~ doesn't include the following activities and equipment: ~~(3-31-22)~~( )

a. Road construction equipment and supplies such as tractors, road graders, rollers, water trucks, whether licensed or unlicensed, explosives, gravel, fill material, dust suppression products, culverts, and bridge material. (3-31-22)

b. Slash disposal or brush piling and clearing equipment and supplies, such as brush clearing machines, brush rakes, and tractors, except when part of the operation of a tree farm. (3-31-22)

c. Reforestation equipment and supplies~~, except when part of the operation of a tree farm~~. ~~(3-31-22)~~( )

d. Safety equipment and supplies, including hard hats and earplugs. (3-31-22)

e. Transportation equipment and supplies including vehicles to transport logs from the loading site to the mill, whether the vehicles are licensed or unlicensed, and cable and tie-downs used to fasten logs to the vehicle. (3-31-22)

f. ~~Machinery, equipment, materials, repair parts, and supplies used in a manner that is incidental to logging such as: office equipment and supplies; selling and distribution equipment and supplies; janitorial equipment and supplies; maintenance equipment and supplies which do not become component parts of logging equipment, such as welders, welding gas, and shop equipment; and p~~Paint, plastic coatings, and all other similar products used to protect and maintain equipment, whether applied to logging equipment or other equipment. ~~(3-31-22)~~( )

~~**g.** Recreation related vehicles, as defined in Section 63-3622HH, Idaho Code, regardless of use, such as All Terrain Vehicles (ATV), snowmobiles, and off-highway motorbikes. (3-31-22)~~

~~**h.** Aircraft or motor vehicles licensed or required to be licensed by the laws of this state, regardless of the use to which such motor vehicles or aircraft are put. A motor vehicle not required to be licensed is exempt under the logging exemption only if it meets the tests established elsewhere in this rule. (3-31-22)~~

~~i~~g. Harvesting timber for firewood. (3-31-22)

0~~8~~7. Election to Pay Sales Tax. The owner of a log loader, log jammer, or similar fixed load motor equipment used in logging, not normally licensed for use on public roads, may elect to license and pay sales tax on the motor equipment rather than placing it on the personal property tax rolls, if the motor equipment may be legally operated on a public road as a commercial vehicle. (3-31-22)

a. Motor equipment licensed at the time of purchase. Sales tax applies to the total purchase price of the motor equipment. (3-31-22)

b. Motor equipment licensed after the date of purchase. Use tax applies to the fair market value of motor equipment on which no sales or use tax has been paid and which was not licensed at the time of purchase, if acquired within the last seven (7) years. See Section 63-3633, Idaho Code. Fair market value may be determined from the personal property tax records of the county assessor. (3-31-22)

08. Examples. Available at Sales and Use Tax Rules Examples. ( )

103. (RESERVED)

104. RAILROAD ROLLING STOCK, PARTS, MATERIALS AND EQUIPMENT ~~(RULE 104)~~.
Sections 63-3622, 63-3622CC, 63-3622DD, Idaho Code

~~**01. In General**. Sections 63-3622CC and 63-3622DD, Idaho Code, provide exemptions from sales or use tax for rebuilt or remanufactured railroad rolling stock which was previously used in interstate commerce more than three (3) consecutive months, and for parts, materials, and equipment primarily used to rebuild or remanufacture such railroad rolling stock. (3-31-22)~~

0~~2~~1. Definitions. As used in this ~~rule~~ section, the following terms have the following meanings. ~~(3-31-22)~~( )

a. Railroad rolling stock. Flanged-wheel locomotives, railroad cars, maintenance of way equipment and other flanged-wheel vehicles designed and manufactured specifically for use on railroad tracks and railroad systems, including component parts thereof. (3-31-22)

b. Remanufacture/rebuild. To reconstruct, remake, reassemble or reprocess railroad rolling stock to materially extend the life of the equipment. This process requires extended removal of the railroad rolling stock from the transportation stream. (3-31-22)

c. Equipment. All equipment, other than railroad rolling stock, which is used in the actual remanufacturing/rebuilding process. (3-31-22)

d. Parts. Tangible personal property which becomes part of the remanufactured/rebuilt railroad rolling stock or which becomes part of the equipment ~~described in Subsection 104.02.c. above~~. ~~(3-31-22)~~( )

e. Materials. Tangible personal property which is used or consumed in the actual process of remanufacturing/rebuilding railroad rolling stock. (3-31-22)

f. Used in interstate commerce. Railroad rolling stock is used in interstate commerce when it performs a function which is necessary to the operation of a business which transports goods or people between two (2) or more states. (3-31-22)

g. Repair. To mend or restore to good usable condition railroad rolling stock which has not been damaged to an extent requiring extended removal from the transportation stream. (3-31-22)

h. Maintenance. Routine, periodic activities, such as lubrication and filter and oil changes, which are necessary to the continued use and operation of railroad rolling stock. (3-31-22)

i. Primary or primarily. Used more than fifty percent (50%) of the time to remanufacture/rebuild railroad rolling stock. (3-31-22)

0~~3~~2. Generally, Included Within the Exemption: (3-31-22)

~~**a.** Equipment necessary to, and primarily used in the process of, remanufacturing/rebuilding railroad rolling stock.~~ ~~(3-31-22)~~

~~**b.** Tangible personal property which become part of the remanufacture/rebuilt railroad rolling stock or which becomes part of the equipment identified in Subsection 104.03.a., above.~~ ~~(3-31-22)~~

~~**c.** Tangible personal property which is consumed or primarily used in the remanufacturing/rebuilding process.~~ ~~(3-31-22)~~

~~**d**~~**a.** Fuel used in testing remanufactured/rebuilt engines which are railroad rolling stock, and fuel used in equipment which is necessary to, and primarily used in, the remanufacturing/rebuilding process. ~~(3-31-22)~~( )

0~~4~~3. Generally, Excluded from This Exemption: (3-31-22)

a. Motor vehicles and trailers which are licensed or ~~required~~ mandated are to be licensed even though they may have flanged-wheel attachments which enable travel on railroad tracks. ~~(3-31-22)~~( )

b. Tangible personal property which is used in such a way that it becomes a fixture to, or an improvement to, real property. (3-31-22)

c. Tangible personal property, equipment, parts, materials, used or consumed in an activity which is primarily repair or maintenance of railroad rolling stock. (3-31-22)

d. Fuel used in activities other than those stated in Subsection 104.03.d. of this rule and which ~~is not~~ isn't exempt under other provisions of the Sales Tax Act. ~~(3-31-22)~~( )

e. Tangible personal property used in related activities which are not primarily remanufacturing/rebuilding activities, including: office equipment and supplies; safety equipment and supplies; equipment, other than railroad rolling stock, which is primarily used to construct, improve, alter or repair real property; and chemicals, solvents, and other cleaning agents used primarily for maintenance of the remanufacturing/rebuilding processing area. (3-31-22)

105. TIME AND IMPOSITION OF TAX, RETURNS, PAYMENTS, AND PARTIAL PAYMENTS ~~(RULE 105)~~.

Sections 63-3046, 63-3619, 63-3621, 63-3623, 63-3634, Idaho Code

01. Time and Imposition of Tax. (3-31-22)

a. Sales Tax. Sales tax is imposed, computed and collected at the time of sale, without regard to the provisions of any contract relating to the time or method of payment. In the case of installment sales, sales on account, or other credit sales, the seller reports as a taxable sale the entire sales price for the month in which the sale is made. No part of the sales tax may be deferred until the time the retailer collects payment from the buyer. A sale occurs when title to property passes through delivery to the customer or absolute and unconditional appropriation to a contract. Lease or rental payments are taxable during the month or other period for which the property is leased or rented. (3-31-22)

b. Use Tax. Use tax is determined at the time of the use, storage or other consumption of tangible personal property in Idaho. The tax is reported and payable in accordance with the provisions of this rule. Persons making purchases subject to use tax should apply for a use tax permit number from the Tax Commission. ~~Application forms may be obtained by contacting any Commission office.~~ ~~(3-31-22)~~( )

~~**c.** Taxable Sales Create State Revenue. The sales or use tax collected by a retailer from a customer at the time of purchase becomes state money at that time. The collected amounts may not be put to any use other than that allowed by Chapter 36, Title 63, Idaho Code, and these rules.~~ ~~(3-31-22)~~

02. Returns. (3-31-22)

a. Monthly Filing ~~Generally Required~~. All retailers and persons subject to use tax are ~~required~~ obligated to remit the tax to the state on a monthly basis unless a different reporting period is ~~prescribed~~ allowed by the Tax Commission. The remittance will include all sales and use tax due from the first through the last day of the preceding calendar month. ~~(3-31-22)~~( )

b. Request to File Quarterly or Semiannually. Retailers or persons who owe seven hundred-fifty dollars ($750) or less per quarter and have established a satisfactory record of timely filing and payment of the tax may request permission to file quarterly or semiannually instead of monthly. (3-31-22)

c. Request to File Annually. Retailers or persons who have seasonal activities, such as Christmas tree sales or repeating fair booths, may request permission to file annually. Approval of the request is at the discretion of the Tax Commission and is limited to taxpayers who have established a satisfactory record of timely filing and payment of the tax. ~~(3-31-22)~~( )

d. Variable Filing. If the Tax Commission finds it necessary ~~or convenient~~ for the administration of the Sales Tax Act, it may assign an account to a taxpayer with a variable filing requirement. In such a case the taxpayer ~~would not~~ wouldn't be ~~required~~ obligated to file returns at regular intervals. The Tax Commission may also create one-time filing only accounts for taxpayers who are making a single payment of sales or use tax. ~~(3-31-22)~~( )

e. Change in Filing Frequency. If the Tax Commission finds it necessary ~~or convenient~~ for the efficient administration of the Sales Tax Act, it may require taxpayers reporting taxable sales of less than twelve thousand dollars ($12,000) per year to file annually. ~~(3-31-22)~~( )

f. Final Report. Whenever a taxpayer who ~~is required~~ has an obligation to file sales tax returns ~~under the Sales Tax Act or these rules~~ stops doing business, the taxpayer marks cancel on the last return the taxpayer files. This return ends the taxable year for sales or use tax purposes and constitutes the taxpayer's final report of sales or use tax activities or liabilities. The taxpayer encloses their seller's permit with ~~his~~ their request for cancellation or sends a written statement that the permit has been destroyed. If the taxpayer continues business activity after filing a final report, they may be subject to liabilities or penalties ~~for failing to comply with the Idaho Sales Tax Act and these rules~~. ~~(3-31-22)~~( )

03. Valid Return. A tax return or other document ~~required to be~~ filed ~~in accordance with Section 63-3623, Idaho Code, and these rules~~ will meet~~s~~ the conditions prescribed below. Returns ~~that fail to meet these requirements~~ missing anything listed below are invalid. They may be rejected and returned to the taxpayer to be

redone ~~in accordance with these requirements~~ and refiled. A taxpayer who ~~does not~~ doesn't file a valid return is considered to have filed no return. A taxpayer's failure to properly file in a timely manner may result in penalties ~~imposed by Section 63-3634, Idaho Code, and related rules~~. Perfect accuracy ~~is not required of~~ isn't necessary for a valid return, although each of the following conditions is ~~required~~ expected: ~~(3-31-22)~~( )

a. It is submitted on the proper form, as prescribed by the Tax Commission and is complete. ~~(3-31-22)~~( )

b. If ~~required~~ necessary, copies of all pertinent supporting documentation are attached. ~~(3-31-22)~~( )

c. The tax liability is calculated and has sufficient supporting information, if ~~required~~ necessary, to demonstrate how the result was reached~~;~~. A return that ~~does not~~ doesn't provide sufficient information to compute a tax liability ~~does not~~ doesn't constitute a valid return. ~~(3-31-22)~~( )

d. All sales and use tax returns or other documents filed by the taxpayer ~~need to~~ will include the relevant sales or use tax permit number. ~~(3-31-22)~~( )

e. The submission shows an honest and genuine effort to satisfy the requirements of the law. (3-31-22)

04. ~~Use of Estimates~~ Extension of Time ~~Returns~~ to File. ~~(3-31-22)~~( )

a. The Tax Commission may, for good cause, grant authority for a taxpayer to file for an extension of time by filing an estimated return. When filing the Extension of Time estimated return, the taxpayer attaches a written request which sets forth the reason for estimating. The Tax Commission will review each request to determine if there is good cause for filing an Extension of Time estimated return. If the Tax Commission determines that the request should be denied, the taxpayer will be notified in writing and a penalty~~, as provided by Section 63-3046, Idaho Code,~~ will apply to any delinquent tax due when the original return is filed. ~~(3-31-22)~~( )

b. If the return for any period is filed on an estimated basis, the estimated return is to be filed timely and reconciled to actual figures by filing an original return within one (1) month of the due date. Any additional tax due as a result of reconciliation is to be remitted when the original return is filed and ~~must~~ should include interest on any unpaid balance due from the due date of the return. ~~(3-31-22)~~( )

c. The estimated tax remitted is to be at least ninety percent (90%) of the total sales and use tax due for the period or one hundred percent (100%) of the total sales and use tax due for the same month of the prior year. If the estimated tax paid is less than these requirements, a five percent (5%) penalty may be applied to the remaining tax due~~, as provided by Section 63-3046(a), Idaho Code~~. ~~(3-31-22)~~( )

d. Taxpayers wishing to file an Extension of Time estimated return will need to contact the Tax Commission to obtain the ~~required~~ necessary forms ~~from the Commission~~. ~~(3-31-22)~~( )

05. ~~Forms Required~~Sale and Use Tax Returns. The original return will be completed with the amount of total sales, nontaxable sales, taxable sales, items subject to use tax, and tax due inserted in the blanks. Payment will accompany the return. A complete sales and use tax return will be filed by each retailer or person subject to use tax. This return will be on a form prepared and mailed to the taxpayer by the Tax Commission. If the original is lost or destroyed, a substitute form will be supplied upon request. ~~(3-31-22)~~( )

a. Retailers Report Own Use and Nontaxed Transactions. All retailers report any sales or purchases on which no sales or use tax was collected or paid. Goods sold or produced and consumed by the retailer, items withdrawn from stock for personal use or employee use, stock removed and used for gift or promotional purposes, or any combination of such uses are taxable. (3-31-22)

b. Reporting Adjustments. Any adjustments for additional tax due or credits claimed should be made on the next return due after the adjustments are discovered. These adjustments are to be shown on the line designated for adjustments on the return form and ~~must~~ will be accompanied by an explanation and any documents that support

the claimed adjustment. ~~(3-31-22)~~( )

06. Payment of Tax. (3-31-22)

a. Payment to Accompany Return. The sales and use tax return filed ~~in accordance with this rule~~ is to be accompanied by a remittance of the total amount due as shown on the return. Checks or other negotiable instruments should be made payable to the Tax Commission. ~~(3-31-22)~~( )

b. Payment of One Hundred Thousand Dollars ($100,000) or Greater. All taxes due to the state are to be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars ($100,000) or greater~~, in accordance with rules promulgated by the Idaho State Board of Examiners, which is incorporated by reference to these rules~~. ~~(3-31-22)~~( )

c. Remittance of Collections ~~Required~~ --Bracket Exception. Retailers are ~~required~~ obligated to remit all taxes collected from buyers, except any difference that may result from use of the bracket system described in ~~Rule~~ Section 068 ~~of these rules~~. Any taxes erroneously collected in excess of those properly due should be refunded to the buyer by the retailer. If the retailer either cannot or ~~does not~~ doesn't make the refund during the period for which the return is due, then the retailer reports the erroneously collected taxes on the return and pay them to the Tax Commission. If the erroneously collected taxes are subsequently refunded to the buyer from whom they were collected, the retailer may claim a credit or refund of sales taxes in accordance with ~~Rule~~ Section 117 ~~of these rules~~. Under no circumstances may a retailer retain any amount collected as sales or use tax which is greater than the retained amount authorized under the bracket system by ~~Rule~~ Section 068 ~~of these rules~~. ~~(3-31-22)~~( )

07. Filing Dates--General Rule. The filing date for all sales or use tax returns is the twentieth day of the calendar month immediately following the last day of the reporting period, unless otherwise allowed by these rules. This is the filing due date for all regular monthly, quarterly, semiannual, and annual accounts. If the twentieth is a Saturday, Sunday, or legal holiday, the return is due on the next following day which ~~is not~~ isn't a Saturday, Sunday, or legal holiday. ~~(3-31-22)~~( )

106. VEHICLE SALES, RENTALS, AND LEASES ~~(RULE 106)~~.
Sections 63-3610, 63-3612, 63-3613, 63-3619, 63-3621, ~~63-3622K, 63-3622R,~~ Idaho Code

~~**01. In General**. The sale, lease, rental, or purchase of a vehicle is subject to sales and use tax. Retailers, lessors, and dealers are required to collect the tax.~~ ~~(3-31-22)~~

021. Vehicles Purchased from Idaho Dealers. ~~When a dealer of new or used vehicles sells any motor vehicle for delivery in Idaho, the dealer collects sales or use tax at the rate in effect on the date the vehicle is delivered to the buyer, unless an exemption applies.~~ A title application form ~~which is~~ completed by the dealer ~~and displays~~ showing Idaho sales tax collected is evidence that the buyer paid sales tax to the dealer. ~~(3-31-22)~~( )

~~**03. Vehicles Purchased from Out-of-State Dealers**. Any trade-in allowance is to be shown on the original bill of sale, voucher, or other receipt from the out-of-state dealer. If sales tax was correctly paid to a dealer in another state, a credit is allowed against sales or use tax payable to Idaho. See Rule 107 of these rules.~~ ~~(3-31-22)~~

042. Vehicles Purchased from Private Parties. (3-31-22)

a. ~~Bill of Sale. The buyer presents a bill of sale or receipt as proof of the gross sales price. Canceled checks will not be accepted in lieu of a bill of sale.~~ Private party sales of vehicles are taxable. The county assessor will collect tax on the gross sales price at the time of titling and registration. ~~(3-31-22)~~( )

b. ~~No Bill of Sale.~~ The buyer presents a bill of sale or receipt as proof of the gross sales price. Canceled checks won't be accepted in lieu of a bill of sale. In the absence of a bill of sale or ~~documentation~~ receipt supporting the ~~value~~ sales price of the vehicle, tax is collected on the value established as the "average condition trade-in ~~price~~ value" in the most recent ~~NADA~~ J.D. Power Official Used Car Guide for the same make, model, options, year, mileage, and condition. ~~(3-31-22)~~( )

c. ~~Trade-In.~~ A trade-in allowance ~~is not~~ isn't allowed on a private party sale. ~~See Rule 044 of these~~

~~rules. The county assessor will collect tax on the gross sales price.~~ ~~(3-31-22)~~( )

d. ~~Barter/Exchange.~~ A barter or exchange of vehicles or other property is taxed on the value of the vehicles ~~or~~ and other property involved in the exchange. In the absence of documentation supporting the value of the vehicle(s), tax is ~~due~~ collected on the value established as the ~~"~~average condition trade-in ~~price"~~ value in the most recent ~~NADA~~ J.D. Power Official Used Car Guide for the same make, model, options, year, mileage, and condition. ~~(3-31-22)~~( )

0~~5~~3. Vehicles Purchased from Retailers. (3-31-22)

a. A retailer ~~required~~ obligated to have an Idaho seller's permit collects sales tax when selling a vehicle, even ~~though~~ if they are not licensed as a vehicle dealer. The retailer giv**es** t**h**e buyer the title to the ~~motor~~ vehicle, properly completing title transfer information on the title, including the retailer's seller's permit number as proof that Idaho sales tax was collected. The retailer will also give the buyer a bill of sale stating: ( )

i. ~~t~~The date of sale; ( )

ii. ~~t~~The name and address of the seller; ( )

iii. ~~t~~The complete vehicle description, including the~~,~~ vehicle identification number (VIN)~~,~~ that agrees with the VIN on the title; ( )

iv. ~~t~~The person to whom the vehicle was sold; ( )

v. ~~t~~The amount for which the vehicle was sold; and ( )

vi. ~~t~~The amount of sales tax charged. ~~(3-31-22)~~( )

b. ~~A~~If a retailer ~~is not relieved of the responsibility for~~ doesn't collect~~ing the~~ sales tax, the retailer will be held liable to pay the tax unless they can provide one (1) of the following to the Tax Commission ( )

i. ~~s~~Satisfactory evidence ~~to the Commission~~ that the buyer paid tax to the county assessor~~.~~; ( )

ii. ~~If a retailer fails to collect the tax from the buyer, the county assessor will collect the tax~~A properly executed exemption certificate. ~~(3-31-22)~~( )

0~~6~~4. Vehicles Rented or Leased. (3-31-22)

a. ~~A lease-purchase and lease with option to purchase have separate definitions and tax applications~~A rental or lease of a vehicle is taxable. See ~~Rule~~ Section 024 ~~of these rules. A lease-purchase is taxable on the full purchase price at the time the vehicle is delivered to the lessee. A true lease and a lease with an option to purchase are subject to sales tax on each lease payment and on the buy-out or residual value when a lessee exercises his option to buy. The information in Section 106 deals with rentals, true leases, and leases with an option to buy.~~ ~~(3-31-22)~~( )

b. ~~The lessor of a vehicle is a retailer and will collect sales tax from the lessee on any rental or lease payment on the date it is required to be made, at the tax rate in effect on that date. The lessor also collects tax on any lessee's exercise of an option to buy based on the full purchase price or residual, at the tax rate in effect on the date title is transferred to the lessee.~~If a lessor doesn't collect sales tax on a purchase option, the lessor will be held liable to pay the tax unless they can provide one (1) of the following to the Tax Commission: ~~(3-31-22)~~( )

i. Satisfactory evidence that the buyer paid tax to the county assessor; or ( )

ii. A properly executed exemption certificate. ( )

~~c. The lessor may not rely on the county assessor to collect sales or use tax if the purchase option is exercised.~~ ~~(3-31-22)~~

~~d~~c. The lessor collects and remits sales tax on each lease payment received from the renter or lessee. The sales tax is applicable whether the vehicle is leased or rented on an hourly, daily, weekly, monthly, mileage, or any other basis. (3-31-22)

~~e. If the lessor is responsible for maintaining the vehicle and this is stated in the lease or rental agreement, tax does not apply to his purchase of necessary repair parts. (3-31-22)~~

~~f~~d. Out-of-state lessors are to obtain a seller's permit and comply with this rule. If the county assessor cannot verify that the lessor is properly registered to collect the tax, title and registration ~~will~~ could be denied. ~~(3-31-22)~~( )

~~g. When a vehicle is traded in as part payment for the rental or lease of another vehicle, a deduction is allowed before computing the sales tax. The methods of applying the trade-in value to the lease are found in Rule 044 of these rules. (3-31-22)~~

~~**08. Cross-References.** (3-31-22)~~

~~a. See Rule 024 of these rules. Rentals or leases of tangible personal property. (3-31-22)~~

~~b. See Rule 044 of these rules. Trade-ins, trade-downs, and barter. (3-31-22)~~

~~c. See Rule 099 of these rules. Occasional sales. (3-31-22)~~

~~d. See Rule 091 of these rules. Sales to American Indians. (3-31-22)~~

~~e. See Rule 101 of these rules. Motor vehicles and trailers used in interstate commerce. (3-31-22)~~

~~f. See Rule 107 of these rules. Vehicles and Vessels - Gifts, Military, Nonresident, New Resident, Tax Paid to Another State, Sales to Family Members, Sales to American Indians. (3-31-22)~~

~~g. See Rule 108 of these rules. Motor vehicles manufacturer's, rental company's and dealer's purchase or use of motor vehicles. (3-31-22)~~

~~h. See Rule 128 of these rules. Certificates For Resale And Other Exemption Claims. (3-31-22)~~

107. VEHICLES AND VESSELS – GIFTS, MILITARY PERSONNEL, NONRESIDENTS, NEW RESIDENTS, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, ~~SALES TO AMERICAN INDIANS,~~ AND OTHER EXEMPTIONS ~~(RULE 107)~~.
Sections ~~49-117, 49-121, 49-122,~~ 63-3605L, 63-3621, 63-3622K, 63-3622R, ~~67-7101,~~ Idaho Code

~~**01. In General.** This rule discusses specific topics relating to vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of vehicles. (3-31-22)~~

0~~2~~1. **Gifts of Vehicles**. When the following facts clearly establish that a vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (3-31-22)

a. No money, services, or other consideration is exchanged between the donor and recipient at any time~~.~~. ~~(3-31-22)~~

~~b.~~ ~~T~~the recipient assumes no indebtedness~~.~~, and ~~(3-31-22)~~

~~c.~~ ~~T~~the relationship of the donor and recipient indicates a basis for a gift. ~~(3-31-22)~~( )

~~d~~b. The donor ~~and~~ will provide the recipient ~~complete and sign a Form ST-133GT, Use Tax~~ properly executed ~~E~~exemption ~~C~~certificate ~~– Gift Transfer Affidavit and~~. The recipient will submit it to the county assessor along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit, the recipient can

submit either: ~~(3-31-22)~~( )

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor and attached to the affidavit; or (3-31-22)

ii. The title may be marked as a gift and signed by the donor. (3-31-22)

0~~3~~2. Purchases Brought into Idaho by Nonresidents. (3-31-22)

a. ~~A nonresident does not owe use tax on the use of a motor vehicle which is purchased outside of Idaho and titled or registered under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(11), Idaho Code, and is not required to be registered or licensed under Idaho law.~~ For purposes of ~~this Subsection (107.03.a.)~~ the nonresident exemption, a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. ~~This exemption applies only to nonresidents.~~ ( )

b. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more vehicles or vessels ~~is not~~ isn't a nonresident. The use of a vehicle owned by such an entity will be subject to use tax upon its first use in Idaho. ~~(3-31-22)~~( )

~~**b.** For the purposes of this rule, a corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state.~~ ~~(3-31-22)~~

~~**c.** A nonresident college student does not owe use tax on any use of a motor vehicle while enrolled as a full-time student in a college or university located in Idaho and accredited by the Idaho State Board of Education if the motor vehicle meets the following requirements:~~ ~~(3-31-22)~~

~~i. It is registered under the laws of the student's state of residence; and~~ ~~(3-31-22)~~

~~ii. It is owned by the student or a family member of the student.~~ ~~(3-31-22)~~

0~~4~~3. New Residents. ~~A new resident of Idaho does not owe tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired while residing in another state and used primarily outside Idaho.~~ If an owner obtained a registration or title from another state or nation of residence more than ~~three (3) months~~ ninety (90) days before moving to Idaho, this is proof that it was purchased primarily for use outside Idaho. New residents entering Idaho with a vehicle titled or registered in a state that ~~does not~~ doesn't impose a general sales and use tax will be ~~required~~ obligated to ~~complete and sign Form ST-102, Use Tax~~ provide a properly executed ~~E~~exemption ~~C~~certificate ~~– New Resident,~~ and submit it to the ~~or~~ county assessor when applying for a title transfer or registration certificate. ~~(3-31-22)~~( )

~~**a.** If the vehicle, vessel, or aircraft was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state.~~ ~~(3-31-22)~~

~~**b.** A personally owned vehicle, vessel, or aircraft is one that is owned by, and titled or registered to, an individual or individuals.~~ ~~(3-31-22)~~

0~~5~~4. Military Personnel. (3-31-22)

a. ~~Active duty military personnel and their spouses do not owe use tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter.~~ If a military person and any accompanying spouse who own a vehicle ~~owner~~ obtained a registration or title from another state or nation of residence prior to receipt of orders to transfer to Idaho or ~~three (3) months~~ ninety (90) days prior to moving to Idaho, whichever time period is shorter, this is proof that the vehicle was primarily for use outside Idaho. Military personnel

and any accompanying spouse entering Idaho with a vehicle titled or registered in a state that doesn't impose a general sales and use tax will provide a properly executed exemption certificate and submit it to the county assessor when applying for a title transfer or registration certificate. (3-31-22)

~~b.~~ ~~Military personnel receive no special exemption from the Idaho sales and use tax regarding vehicles or other tangible personal property purchased while temporarily assigned in this state.~~ A military person whose home of record is Idaho is ~~considered to be~~ a resident of this state and doesn't qualify for any exemption when bringing their vehicles back to Idaho. Military personnel receive no special exemption from the Idaho sales and use tax for purchases in Idaho of vehicles or other tangible personal property while temporarily assigned in this state. (3-31-22)( )

06~~7~~5. Tax Paid to Another State. ~~When a general retail sales tax has been properly imposed by another state or political subdivision of a state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. The credit for state and local taxes paid in another state will be applied first to the state sales tax due and the remainder, if any, will be applied to any local taxes due~~ Credit may be given for any general sales or use tax paid to another state. See Section 072. (3-31-22)

~~a.~~ ~~If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner is to provide evidence that the tax was paid to the other state.~~ A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (3-31-22)

~~b.~~ ~~Example: A resident of another state buys a vehicle in that state for ten thousand dollars ($10,000) two (2) months before moving to Idaho. He presents his title from the other state to the county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to the other state was three hundred dollars ($300) when the vehicle was purchased. Credit for this amount is allowed against the six hundred dollars ($600) tax due Idaho. The county assessor will collect three hundred dollars ($300) tax.~~ (3-31-22)

~~c.~~ ~~Example: A resident of another state purchased a vehicle two (2) months before moving to Idaho. The applicant paid four percent (4%) state sales tax, one and six tenths percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total general sales tax paid was seven and two tenths percent (7.2%). Since the Idaho tax rate is lower, no tax is due Idaho because the amount of tax paid to the other state exceeds the amount owed Idaho.~~ (3-31-22)

~~d.~~ ~~Example: A resident of Alaska buys a vehicle immediately prior to moving to Idaho. The buyer paid a three percent (3%) city sales tax in Alaska. When the buyer moves to Idaho, credit will be given for the local tax paid against the Idaho state use tax due.~~ (3-31-22)

~~e.~~ ~~A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state.~~ This ~~does not~~ doesn't apply to states that ~~do not~~ don't have a general sales tax, such as Alaska, Montana, and Oregon, or when a state has exempted the vehicle from tax. (3-31-22)( )

~~f.~~ ~~Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax is due on the fair market value of the vehicle when it is titled in Idaho.~~ (3-31-22)

~~g.~~ ~~Taxes paid to another country cannot be used to offset the taxes owed to Idaho.~~ (3-31-22)

07~~6~~. Sales to Family Members. ~~The~~ No tax ~~does not~~ applies~~y~~ to sales of motor vehicles between ~~members of a family related within the second degree of consanguinity. The second degree of consanguinity means only~~ the following blood or ~~formally~~ legally adopted relatives ~~of the person making the sale~~: parents, children, grandparents, grandchildren, brothers, and sisters. ~~Relatives of the second degree of consanguinity do not~~ This doesn't include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a ~~person who is related within the second degree of consanguinity to~~ qualifying relative of either spouse, the sale is exempt from tax. The recipient will provide a properly executed exemption certificate and submit it to the county assessor when applying for a title transfer or registration certificate. This exemption doesn't apply if the seller didn't pay tax when the vehicle was acquired. (3-31-22)( )

~~**a.** Form ST-133, Sales Tax Exemption Certificate – Family or American Indian Sales. A Form ST-133 is used to document this exemption. The seller and buyer complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the motor vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor and attached to the affidavit. (3-31-22)~~

~~**b.** This exemption does not apply if the seller did not pay tax when he acquired the motor vehicle. (3-31-22)~~

~~**c.** Example: An Oregon resident buys a motor vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the motor vehicle for ten thousand dollars ($10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay sales or use tax when he acquired the motor vehicle. The son is required to pay Idaho use tax on the ten thousand dollar ($10,000) purchase price of the motor vehicle. (3-31-22)~~

~~**08. Sales to American Indians**. An enrolled American Indian tribal member may buy a vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian reservation. (3-31-22)~~

~~**a.** Form ST-133, Sales Tax Exemption Certificate – Family or American Indian Sales. A Form ST-133 is used to document this exemption. The seller and the buyer complete and sign Form ST-133 and provide the name of the tribe, the Tribal Identification Number, and the name of the reservation upon which the delivery occurred. The affidavit is then given to the county assessor along with the title to the vehicle being transferred. See Rule 091 of these rules. (3-31-22)~~

~~**09. Bulk Sale Transfers**. A transfer or sale of a vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer will complete and sign Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit to present to the county assessor when applying for transfer of title. The buyer attaches a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (3-31-22)~~

~~1~~07. **Sales to Nonresidents**. ~~(3-31-22)~~

~~**a.** Sales of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), utility type vehicles (UTVs), specialty off-highway vehicles (SOHVs), off-highway motorcycles, and snowmobiles to nonresidents for use out of this state, even though delivery is made within this state are exempt from tax when: (3-31-22)~~

~~i. The motor vehicles, vessels, ATVs, UTVs, SOHVs, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (3-31-22)~~

~~ii. The motor vehicles, vessels, ATVs, UTVs, SOHVs, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than ninety (90) days in any twelve-month period. (3-31-22)~~

~~**b.** To claim the exemption, each buyer provides the seller with a completed and signed Form ST-104NR, Sales Tax Exemption Certificate – Nonresident Vehicle/Vessel. The seller keeps a copy for their records and send a copy of the completed form to the Commission. (3-31-22)~~

~~**c.** This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, paddleboards, inflatable boats, or similar watercraft regardless of length when sold without a motor. (3-31-22)~~

~~**d.** For purposes of Subsection 107.10 of this rule, ATV, UTV, and SOHV have the same meaning given to them in Section 67-7101, Idaho Code. (3-31-22)~~

~~**e.** For purposes of Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: (3-31-22)~~

~~i. Sold together with a motor; or (3-31-22)~~

~~ii. Eleven (11) feet in length or more, not including canoes, kayaks, paddleboards, inflatable boats, or similar watercraft unless such canoe, kayak, paddleboard, inflatable boat, or similar watercraft is sold together with attached motor. (3-31-22)~~

~~f. For the purposes of Subsection 107.10 of this rule a trailer needs to meet the definition of a park model recreational vehicle, a trailer or utility trailer found in Sections 49-117, 49-121, and 49-122 Idaho Code, which is a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term "trailer" includes the specific types of trailers or park model recreational vehicles defined in Sections 49-117, and 49-121(6), Idaho Code. (3-31-22)~~

~~g.~~ To qualify for ~~this~~ the nonresident exemption, the buyer needs to be a nonresident of Idaho. An Idaho resident may form an LLC or other legal entity under the laws of another state. If such an LLC or other entity is formed primarily for the purpose of owning one (1) or more vehicles or vessels it ~~is not~~ isn't a nonresident. The purchase or use of a vehicle or vessel in Idaho by such an entity is taxable. ~~(3-31-22)~~( )

~~11. Motor Vehicles and Trailers Used in Interstate Commerce. The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of motor vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The buyer will complete and sign the Form ST-104IC, Sales Tax Exemption Certificate -- Interstate Commerce Vehicles and provide it to the seller. See Rule 101 of these rules. (3-31-22)~~

~~12. Related Party Transfers and Sales. Certain transfers and sales of vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner will complete and sign the Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit Form and submit the completed form to the county assessor when applying for title transfer. (3-31-22)~~

08. Examples. Available at Sales and Use Tax Rules Examples. ( )

108. PURCHASE OR USE OF VEHICLES ~~MANUFACTURER'S~~BY DEALERS, RENTAL COMPAN~~Y'~~IES, AND ~~DEALER'S PURCHASE OR USE OF VEHICLES (RULE 108)~~ MANUFACTURERS.
Sections 49-1627, 49-1628, 63-3612, 63-3613, 63-3622, 63-3623, Idaho Code

01. Buying for Resale. Licensed vehicle dealers, ~~vehicle~~ rental companies, and manufacturers ~~of vehicles~~ may purchase vehicles without paying sales tax ~~exempt~~ when the vehicles are held for resale or rental and are only used for ~~no purpose other than~~ retention, demonstration, or display while holding the vehicles ~~for sale or rental~~ in the regular course of business. Purchases of parts ~~that will be~~ installed on vehicles held in a resale inventory are exempt from sales tax. ~~(3-31-22)~~( )

02. Titling a Vehicle. ~~Under the Sales Tax Act, no~~ A vehicle ~~may~~ can't be titled without documentation ~~establishing that any~~ showing sales or use tax~~es which may be due have~~ has been correctly paid~~. However, certain vehicles may be titled by~~ with the following exceptions for dealers and rental companies ~~with no tax applying~~.: ~~(3-31-22)~~( )

~~b~~**a.** An Idaho dealer~~s~~ may title vehicles held for resale in the~~ir~~ dealership name to ensure clear title to the vehicle. However, if the vehicle ~~cannot be~~ is registered in the dealer's~~hip~~ name~~. If the dealer applies for registration~~, they will owe tax ~~applies~~. ~~(3-31-22)~~( )

~~a~~**b.** Rental companies may title and register vehicles held in their rental inventory in their company name without ~~no~~paying tax ~~applying~~. ~~(3-31-22)~~( )

03. Dealer Plates. Any vehicle upon which a dealer's plate may be lawfully displayed~~, as provided by Sections 49-1627 and 49-1628, Idaho Code,~~ is~~, for purposes of the Sales Tax Act,~~ inventory held for sale and not

taxable. If any use of a vehicle displaying a dealer plate requires that the dealer provide the user with a compensation form for federal income tax purposes, the amount ~~so~~ reported is subject to use tax. The use tax will be paid by the dealer in the month immediately following the issuance of the compensation form. ~~The~~ If a dealer makes unauthorized use or display of a dealer's plate on ~~the~~ a vehicle which is otherwise ~~required~~ obligated to be titled or licensed under the laws of the state of Idaho, ~~subjects~~ the dealer ~~to a~~ owes use tax ~~liability~~ on the vehicle. ~~(3-31-22)~~( )

04. Service Vehicles. Vehicles~~, such as work or service vehicles,~~ which are not held in ~~stock~~ inventory for sale or rental, such as loaner, work, or service vehicles, are taxable at the time of their purchase. ~~The u~~Use tax will be reported and paid on the sales tax return ~~relating to the period during which the vehicle was purchased~~. In titling the vehicle, the vehicle dealer ~~may~~ reports ~~his~~their seller's permit number to the county assessor or Department of Transportation as evidence that sales or use tax has been paid. ~~(3-31-22)~~( )

05. Inventory Withdrawals ~~by Dealers~~. Dealers may withdraw vehicles from inventory and put them to a use for which a dealer's plate ~~is not~~ isn't authorized, creating a requirement for the vehicles to be titled and licensed. ~~Vehicles required to be t~~Titled and licensed vehicles are taxable. Rental companies that withdraw vehicles from their rental inventory and put them to a taxable use also owe tax. ~~The taxpayer~~Dealers and rental companies may choose one (1) of ~~two (2)~~ the following methods for reporting the tax: ~~(3-31-22)~~( )

a. ~~At the time the vehicle is withdrawn from resale inventory, the taxpayer may r~~Report and pay use tax on ~~his~~ their acquisition cost at the time the vehicle is withdrawn from resale inventory~~.~~; or ~~(3-31-22)~~( )

b. ~~During~~For each month or part of a month during which a vehicle is held for purposes other than resale, ~~the taxpayer may~~ report and pay use tax on a reasonable monthly rental value. A reasonable monthly rental value is ~~an amount equal to rentals charged~~ fair market rental or lease value for vehicles of ~~like or~~ similar make and model ~~when such vehicles are leased or rented by the taxpayer or by other persons in the community in the business of leasing or renting such vehicles~~. ~~(3-31-22)~~( )

~~**06. Inventory Withdrawals by Rental Companies**. Rental companies that withdraw vehicles from their rental inventory and put them to a use subject to use tax may elect either method of reporting tax discussed in Subsection 108.05 of this rule. (3-31-22)~~

~~**07. Applicability of Rule 108**. The provisions of this rule apply only to vehicle dealers or manufacturers licensed as such by the Department of Transportation, and to companies engaged in the business of renting vehicles without operators. (3-31-22)~~

109. AMUSEMENT DEVICES ~~(RULE 109)~~.
Section 63-3623B, Idaho Code

~~**01. Amusement Devices**. "Amusement device" means coin, currency, debit card, credit card, prepaid arcade card, or token operated machines and devices used for amusement or entertainment. This definition includes, but is not limited to, game machines; pool tables; jukeboxes; electronic games; video or cinematic viewing devices; crane, rotary, and pusher machines; and similar devices. It does not include vending machines that are used to sell tangible personal property or other machines or games described in Subsection 109.03 of this rule. (3-31-22)~~

0~~2~~1. Requirement to Obtain Permit. The owner or operator of amusement devices obtains a seller's permit if the owner or operator makes retail sales other than the use of amusement devices. If the owner or operator ~~does not~~ doesn't make such other retail sales, the owner or operator ~~need not obtain a seller~~'s permit, ~~but~~ will obtain an amusement device permit for each amusement device in service. ~~(3-31-22)~~( )

~~**a.** Owners and operators of amusement devices pay a permit fee for every amusement device in operation. Section 63-3623B(e), Idaho Code, states that the fee may be increased proportionately to any increase in the tax rate. The formula to calculate the permit fee is seven hundred dollars ($700) x tax rate. For example, at a tax rate of five percent (5%) the amount of the permit fee is seven hundred dollars ($700) x five percent (5%) = thirty-five dollars ($35). If the tax rate is six percent (6%), the permit fee will be forty-two dollars ($42). If any change in the tax rate becomes effective on July 1 of a given year, the charge for the permit fee will change proportionately on that date also. If a change in the tax rate occurs on a day other than July 1, the permit fee will be changed on the next~~

~~July 1 following the change in the tax rate.~~ ~~(3-31-22)~~

~~b~~**a.** Upon receiving the appropriate payment, the Tax Commission will issue to the owner or operator of one (1) or more amusement devices, a permit for each amusement device in service. The owner or operator affixes a separate permit on each amusement device in service. The permit will be affixed to the machine in such a manner that it is easily visible. Permits are transferable from one person to another after written notice of the transfer is received and acknowledged by the Tax Commission. Permits may be transferred from an amusement device that is no longer in service to another amusement device owned or operated by the same person. An amusement device permit ~~is not~~ isn't valid unless the name and business address of the owner or operator is typed or printed in black ink on the face of the permit. ~~(3-31-22)~~( )

~~e~~**b.** Video amusement devices may have more than one (1) monitor and be designed to be operated independently by more than one (1) person. In such cases a separate permit is ~~required~~ mandated for each monitor. ~~(3-31-22)~~( )

~~d~~**c.** Amusement device permits are renewed annually. Annual permits are valid from July 1 through June 30 and are renewed on or before July 1 by the owner or operator of the amusement devices. Amusement devices acquired after July 1 or placed in service before the next July 1 will require the appropriate fee for a full-year permit. (3-31-22)

~~e~~**d.** If an amusement device permit is lost, stolen, or destroyed, an amusement device permit for the current year will still need to be affixed to every operating amusement device. This may require the purchase of a new permit. The Tax Commission ~~will not~~ won't issue free replacement amusement device permits regardless of the reason for the loss of the permit. ~~(3-31-22)~~( )

03. Other Amusement Machines or Games. Charges for the use of machines or games which ~~do not~~ don't meet the definition ~~in Subsection 109.01~~ are taxable at the prevailing rate times one hundred percent (100%) of the gross proceeds received for the use of the device. This applies regardless of the method the owner or operator uses to determine the charge, such as by the hour or by the game. The owner or operator of such amusement machines or games will obtain a seller's permit if the owner or operator charges for the use of such machines. ~~(3-31-22)~~( )

~~**04. Cross-Reference**. See Rule 095 of these rules regarding purchases of Money-Operated Dispensing Equipment.~~ ~~(3-31-22)~~

04. Examples. Available at Sales and Use Tax Rules Examples. ( )

110. RETURNS FILED BY COUNTY ASSESSORS AND FINANCIAL INSTITUTIONS ~~(RULE 110)~~.
Sections 63-3623, 63-3632, 63-3634,63-3638(9), Idaho Code

01. Filing Returns. Upon collection of sales tax on applications for certificate of title to a motor vehicle, trailer, or other titled property, or initial application for registration processed by the county assessor, the assessor will, no less than monthly, complete and submit to the Tax Commission, ~~Form ST-852,~~ an Idaho Sales Tax Return-County Assessors. The assessor may, at ~~his~~ their discretion, submit the form more frequently. But at no time will the amount of tax collected during any month be submitted later than the twentieth day of the month following the month in which the tax was collected. ~~(3-31-22)~~( )

02. Reimbursement. The assessor and the Idaho Transportation Department will be reimbursed at the rate of one dollar ($1) for each application for certificate of title or initial registration of a motor vehicle, trailer, or other titled property; each ~~Form ST-108,~~ Transport Trailer, Office Trailer, and Untitled Boat Certificate; and each ~~Form ST-108TR,~~ Occasional Sale Exemption Claim -- Office Trailer and Transport Trailer, processed by the assessor except those upon which any sales or use tax due has been previously collected by a retailer or paid by the buyer. ~~(3-31-22)~~( )

03. Financial Institutions. Financial institutions collecting tax on sales of tangible personal property that they are financing, whether sold by the financial institution or another person, are to possess an Idaho seller's permit and file returns to remit the tax ~~as prescribed in Rule 105, of these rules~~. If the tax collected ~~is not~~ isn't from a sale made by the financial institution, it can be reported as an adjustment on the return. Failure to remit the tax on a

timely basis will result in the addition of penalties and interest ~~as provided by Sections 63-3632 and 63-3634, Idaho Code~~. ~~(3-31-22)~~( )

~~**04. Cross Reference.** (3-31-22)~~

~~**a.** Permits. See Rule 070 of these rules. (3-31-22)~~

~~**b.** Time and Imposition of Tax. Returns, Payments and Partial Payments. See Rule 105 of these rules. (3-31-22)~~

111. RECORDS ~~REQUIRED~~ AND AUDITING OF RECORDS ~~(RULE 111)~~.
Sections 63-3611, 63-3624, Idaho Code

01. In General. Every retailer doing business in this state and every buyer storing, using, or otherwise consuming in this state tangible personal property will keep complete and adequate records as may be necessary for the Tax Commission to determine the amount of sales and use tax for which that person is liable under Title 63, Chapter 36, Idaho Code. ~~(3-31-22)~~( )

a. Unless the Tax Commission authorizes an alternative method of record keeping in writing, these records will show gross receipts from sales or rental payments from leases of tangible personal property, including any services that are a part of the sale or lease, made in this state, irrespective of whether the retailer or buyer regards the receipts to be taxable or nontaxable; all deductions allowed by law and claimed in filing the return; and the total purchase price of all tangible personal property purchased for sale or consumption or lease in this state. ~~(3-31-22)~~( )

b. These records include the normal books of account ordinarily maintained by the average prudent businessman engaged in such business, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account, together with all schedules or working papers used in connection with the preparation of tax returns. (3-31-22)

c. For taxpayers that maintain ~~the~~ required records in both a machine-sensible and a hard-copy format, that taxpayer will make the records available to the Tax Commission in machine-sensible record format upon the Tax Commission's request. Machine-sensible records are to be maintained in the original format for the same time periods ~~as required of~~ for hard-copy records outline~~s~~d in Subsection 111.04 of this ~~rule~~ section. "Machine-sensible record" is a collection of related information in an electronic format. This ~~does not~~ doesn't include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems. ~~(3-31-22)~~( )

02. Alternative Storage Media. Records, including general books of account, such as cash books, journals, voucher registers, ledgers, and like documents may be ~~microfilmed, microfiched, or~~ retained by a storage-only imaging system and the original hard-copy documents may be discarded when all other conditions of this rule are met. A storage-only imaging system involves computer hardware, software, and other reproduction equipment that provides for the storage, retention, and retrieval of records and documents which were originally created on paper. It ~~does not~~ doesn't allow for any manipulation or processing of the documents. These records are to be authentic, accessible, readable, and meet the following requirements: ~~(3-31-22)~~( )

a. Appropriate facilities are to be provided for preservation of the storage media for the periods ~~required and~~ open to examination and the taxpayers will provide transcriptions of any information on ~~microfilm, microfiche, or~~ imaged data which may be ~~required~~ mandatory for verification of tax liability. ~~(3-31-22)~~( )

b. All ~~microfilmed, microfiched, and~~ imaged data are to be indexed, cross-referenced, and labeled to show beginning and ending numbers and to show beginning and ending alphabetical listing of documents included, and systematically filed to permit ready access. ~~(3-31-22)~~( )

c. The taxpayer will make available upon request of the Tax Commission facilities and equipment in good working order at the examination site for reading, locating, and reproducing any record concerning sales or use tax liability maintained on ~~microfilm, microfiche, or other~~ storage-only imaging system. ~~(3-31-22)~~( )

d. The taxpayer will set forth in writing the procedures governing the establishment of its ~~microfilm, microfiche, or other~~ storage-only imaging system and the individuals who are responsible for maintaining and operating the system with appropriate authorization from the Board of Directors, general partners, or owner, whichever is applicable. ~~(3-31-22)~~( )

e. The ~~microfilm, microfiche, or other~~ storage-only imaging system is to be complete and used consistently in the regularly conducted activity of the business. ~~(3-31-22)~~( )

f. The taxpayer will establish procedures with appropriate documentation so that the original document can be followed through the conversion system. (3-31-22)

g. The taxpayer is responsible for the effective identification, processing, storage, and preservation of ~~microfilm, microfiche, or other~~ storage-only imaging system making it readily available for as long as the contents may become material in the administration of any state tax law. ~~(3-31-22)~~( )

h. The taxpayer is to keep a record identifying by whom the ~~microfilm, microfiche, or other~~ storage-only image system was produced. ~~(3-31-22)~~( )

i. When displayed or reproduced on paper, the material is to exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers. (3-31-22)

j. All production ~~of microfilm or microfiche~~ and processing duplication, quality control, storage, identification, and inspection thereof are to meet acceptable industry standards. ~~(3-31-22)~~( )

03. Records Prepared by Automated Data Processing Systems, ADP. An ADP tax accounting system may be used to provide the records ~~required~~ for the verification of tax liability. Although ADP systems will vary from one taxpayer to another, all such systems are to include a method of producing legible and readable records which will provide the necessary information for verifying such tax liability. The following requirements apply to any taxpayer who maintains any such records on an ADP system: ~~(3-31-22)~~( )

a. Recorded or re-constructible data. ADP records will provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time when they are processed, the systems are to have the ability to reconstruct these transactions. (3-31-22)

b. General and subsidiary books of account. A general ledger, with source references, is to be written out to coincide with financial reports for tax reporting periods. In cases where subsidiary ledgers are used to support the general ledger accounts, the subsidiary ledgers will also be written out periodically. (3-31-22)

c. Supporting documents and audit trail. The audit trail is to be designed so that the details underlying the summary accounting data may be identified and made available to the Tax Commission upon request. The system is to be so designed that supporting documents, such as sales invoices, purchase invoices, credit memoranda, and like documents are readily available. ~~(3-31-22)~~( )

d. Program documentation. A description of the ADP portion of the accounting system ~~are~~ is to be made available. The statements and illustrations as to the scope of operations should be sufficiently detailed to indicate: The application being performed; the procedures employed in each application, which~~, for example,~~ might be supported by flowcharts, block diagrams, or other satisfactory descriptions of the input or output procedures; the controls used to insure accurate and reliable processing; and important changes, together with their effective dates, are to be noted in order to preserve an accurate chronological record. ~~(3-31-22)~~( )

e. Data storage media. Adequate record retention facilities are to be available for storing tapes and printouts, as well as all supporting documents as may be ~~required~~ mandated by law or this ~~rule~~ section. ~~(3-31-22)~~( )

04. Record Retention. All records pertaining to the transactions involving sales or use tax liability are to be preserved for a period of not less than four (4) years. If an assessment has been made and an appeal to the Tax Commission or any court is pending, the books and records relating to the period under appeal by such proposed assessment ~~must~~ will be preserved until final disposition of the appeal. ~~(3-31-22)~~( )

05. Examination of Records. All of the foregoing records are to be made available for examination on request of the Tax Commission or its authorized representatives. ~~(3-31-22)~~( )

06. Failure of the Taxpayer to Maintain or Disclose Complete and Adequate Records. Upon failure by the taxpayer, without reasonable cause, to substantially comply with the requirements of this rule, the Tax Commission will: ~~(3-31-22)~~( )

a. Impose any penalty as may be authorized by law. (3-31-22)

b. Subpoena attendance of the taxpayer and any other witness when the Tax Commission deems it necessary or expedient for examination and compel the taxpayer and witness to produce any documents within the scope of its inquiry relating in any manner to the sales and use tax. ~~(3-31-22)~~( )

c. Enter such other order as may be necessary to obtain compliance with this rule in the future by any taxpayer found not to be in substantial compliance with the requirements of this rule. (3-31-22)

112. DIRECT PAY AUTHORITY ~~(RULE 112)~~.
Sections 63-3624, 63-3629, 63-3631, Idaho Code

01. In General. **A** Direct Pay Authority is granted to certain taxpayers where it is to the mutual convenience of the Tax Commission, the taxpayer, and the taxpayer's vendors to have the sales and use tax liability upon the taxpayer's purchases determined by the taxpayer and reported directly to the state in the form of a use tax. This authorization allows vendors to sell all items of tangible personal property to the taxpayer without charging any sales tax. The only effect of this arrangement is to shift the reporting responsibility to the taxpayer holding the authorization. ~~(3-31-22)~~( )

02. Taxable Purchases. If the particular transaction would have been taxable without the authorization, then the taxpayer holding the authorization pays sales tax to the state even if the use of the item ~~is not~~ isn't subject to use tax. ~~For example, i~~If the taxpayer holding the authorization buys goods from a retailer holding an Idaho seller's permit, then the taxpayer pays sales tax on the transaction even if the goods are intended for use solely outside the state. ~~(3-31-22)~~( )

03. Documentation. To purchase tangible personal property without paying sales tax to the vendor, the taxpayer holding an authorization provides a copy of that authorization to each vendor. (3-31-22)

04. Holder's Responsibilities. The authorization is granted only to those taxpayers who have demonstrated, to the Tax Commission's satisfaction, the accounting and technical capability to comply with the Sales Tax Act. Direct pay authority holders make all purchases of tangible personal property tax exempt and all taxes due as ~~required~~ mandated by the Idaho Sales Tax Act will be remitted directly to the Tax Commission by the direct pay authority holder. Vendors will be allowed to sell all items of tangible personal property to the direct pay authority holder without charging sales tax provided they obtain and keep on file a copy of the letter granting the direct pay authority. ~~(3-31-22)~~( )

05. Revocation. The Tax Commission may revoke ~~an~~ authorization if it determines that the taxpayer ~~is not~~ isn't complying with this rule or if the taxpayer is allowing contractors or other third parties to make exempt purchases under its authority. Notice of revocation will be given in the manner provided for deficiencies in taxes in ~~Section 63-3629,~~ Idaho Code~~,~~ and is subject to review as provided in ~~Section 63-3631,~~ Idaho Code. Should the Tax Commission revoke a taxpayer's direct pay authority, it will be the taxpayer's responsibility to notify his vendors of the revocation. ~~(3-31-22)~~( )

06. Tax Imposed by Hotel/Motel Room Sales Tax. The authorization can't be used for taxes imposed on lodging accommodations. State sales tax, Travel and Convention tax, and Auditorium or Community Center

District tax, when applicable, is charged by and paid to the retailer by the direct pay permittee. (3-31-22)

07. Valid Only on Purchases of Tangible Personal Property. The authorization is valid only on purchases of tangible personal property. The taxpayer can't use the authorization when engaging contractors involved in improving real property. ~~Special rules apply to contractors. Refer to Rules 012 through 015, and 066 of these rules.~~ ~~(3-31-22)~~( )

08. Expiration. Direct Pay Authority is granted for a period of five (5) years. If the authorization ~~is not~~ isn't renewed at the end of the expiration period, the authorization will expire automatically. ~~(3-31-22)~~( )

113. RECREATIONAL VEHICLE REGISTRATION ~~(RULE 113)~~.
Sections 63-3612, 63-3622K, 63-3622R, 63-3622HH, Idaho Code

01. Snowmobile, Motorbike, ~~or~~ ATV, or UTV. A new owner of a new or used snowmobile, motorbike, or ATV will obtain a title for the recreational vehicle ~~according to~~ with the Idaho Transportation Department ~~instructions~~. The buyer will present evidence that sales tax was paid to the seller of the recreational vehicle, or pay any tax due ~~to the county assessor, Idaho Transportation Department, or Commission~~ before a title will be issued. ~~(3-31-22)~~( )

02. Boat. A boat owner registers his boat each year with the Department of Parks and Recreation through authorized agents appointed by that department. (3-31-22)

a. When registering the boat for the first time or transferring the registration to a new owner, the owner will complete ~~Form ST-109, Recreational Vehicle Registration Sales Tax Affidavit,~~ a valid exemption except as provided in Subsection 113.02.c. of this ~~rule~~ section. ~~(3-31-22)~~( )

b. Each month the Department of Parks and Recreation will forward to the Tax Commission the copies of ~~Form ST-109~~ the valid exemption submitted by its agents. ~~(3-31-22)~~( )

c. When registering a boat with a county assessor acting as an authorized agent of the Department of Parks and Recreation, the requirements of this rule ~~do not~~ don't apply. The assessor will collect and remit to the Tax Commission any sales or use tax due. ~~See Rule 099 of these rules.~~ ~~(3-31-22)~~( )

114. SALES UNDER THE SNAP AND WIC PROGRAMS, RECORDS ~~REQUIRED~~ FOR PAYMENTS WITH ELECTRONIC BENEFIT TRANSFER CARDS AND WIC TENDER ~~(RULE 114)~~.
Sections 63-3622EE, 63-3622FF, Idaho Code~~.~~

01. In General. Sales of food purchased under the Federal Supplemental Nutrition Assistance Program (SNAP) or the Federal Special Supplemental Food Program for Women, Infants, and Children (WIC) are exempt from the Idaho sales tax. Sales of food under these programs are exempt whether the buyer uses electronic benefit transfer (EBT) cards, WIC tender, or any other exchange medium authorized for these programs by federal law. (3-31-22)

02. Records ~~Required~~. Retailers who accept EBT cards or WIC tender as payment are to maintain accurate records of those sales. Adequate records include sales reports or tender-type reports with collections ~~from~~ of each type. ~~(3-31-22)~~( )

115. RECORDS ~~REQUIRED~~, NONTAXED SALES BY RETAIL FOOD STORES ~~(RULE 115)~~.
Section 63-3624(~~s~~d), Idaho Code

01. ~~Petition for Reduced Record Keeping~~. ~~Retail food stores may petition the Commission to be relieved from the responsibility of retaining copies of detailed invoices for nontaxed sales.~~ **Retail Food Store**. For the purposes of this section, retail food stores means grocery stores; meat and fish markets; fruit and vegetable markets; candy, nut, and confectionery stores; dairy product stores; retail bakeries; and egg and poultry dealers who's sales are more than fifty percent (50%) for home preparation and consumption. ~~(3-31-22)~~( )

02. Form ~~Required~~. ~~A r~~Retail food stores may apply for reduced record keeping requirements by

submitting a ~~completed Form ST-110,~~ Petition for Sales Tax Records Reduction by a Retail Food Store~~,~~ to the Tax Commission. ~~(3-31-22)~~( )

03. Authority. If authority for reduced record keeping is granted by the Tax Commission, a retail~~er is not required~~ food store isn't mandated to keep detailed sales invoices if ~~he obtains~~ a properly completed resale or exemption certificate is obtained from the customer and thereafter a properly completed ~~Form ST-111,~~ Sales Tax Exemption Claim Form-Grocer for each exempt sale. The completed claim ~~F~~form ~~ST-111~~ includes the following information: ~~T~~the name of the customer; the total purchase price of the exempt items; the date of the sale; whether the nontaxed merchandise sold consisted of food, nonfood items or both; and the signature of the person making the exempt purchase. If available, the retail food store may keep records electronically on the point of sales system. ~~(3-31-22)~~( )

~~**04. Standard Industry Code**. For the purposes of this rule, retail food stores means those retail stores described in major group fifty-four (54) of the Standard Industrial Classification Manual, SIC, of 1987 and whose sales of food for home preparation and consumption account for more than fifty percent (50%) of the store's total sales. Stores in major group fifty-four (54) consist of grocery stores; meat and fish markets; fruit and vegetable markets; candy, nut, and confectionery stores; dairy product stores; retail bakeries; and egg and poultry dealers.~~ ~~(3-31-22)~~

~~**05. Review of Petitions**. The Commission will review all petitions for reduced record keeping requirements. The Commission may examine the books and records of the petitioner to ensure that the petitioner is primarily engaged in the business of selling food for home preparation and consumption. The Commission will give written notice of its determination to the petitioner within sixty (60) days after receiving the petition.~~ ~~(3-31-22)~~

116. BONDING ~~(RULE 116)~~.
Section 63-3625, Idaho Code

01. Posting Security. The Tax Commission may require a retailer to post security to ~~i~~ensure collection and remittance of sales and use taxes for cause including: ~~(3-31-22)~~( )

a. A retailer failing to file sales tax returns. (3-31-22)

b. A retailer failing to remit in full taxes due upon any sales tax return. (3-31-22)

c. A retailer with a consistent history of delinquency either in the filing of returns or payment of tax. (3-31-22)

d. The submission of a check for the payment of taxes which is subsequently dishonored. (3-31-22)

e. The filing of a fraudulent return or any return which fails to report all taxable transactions for the period for which the return relates. (3-31-22)

f. A retailer evidencing serious financial instability which, in the opinion of the Tax Commission, creates reasonable doubt as to the ability of the retailer to pay over sales and use taxes collected ~~by it~~. ~~(3-31-22)~~( )

~~**02. Amount of Security**. The amount of security will be fixed by the Commission but will not exceed an amount equal to three (3) times the anticipated monthly sales tax liability or ten thousand dollars ($10,000), whichever is less, except in the case of retailers who are habitually delinquent in their submission of returns and/or taxes in which case the amount of security will not be greater than five (5) times the estimated average monthly liability or ten thousand dollars ($10,000), whichever is less.~~ ~~(3-31-22)~~

0~~3~~2**. Written Demand**. The ~~W~~written demand for security will be sent to the retailer by the Tax Commission by certified mail or by personal service ~~upon the retailer~~. Failure of the retailer to post the demanded security can be grounds for revocation of the retailer's seller's permit following proper notice and hearing. ~~(3-31-22)~~( )

043. Forms of Security. The Tax Commission will accept ~~as security~~ the following as security: ~~(3-31-22)~~( )

a. Surety bond. A surety bond issued by a bonding company with the power of an attorney affixed thereto which grants the issuing agent the power to obligate the company for this type of liability. (3-31-22)

b. Cash bond. Preferably in the form of a cashier's check. ~~(3-31-22)~~( )

c. Pledged savings accounts. This type of security may be furnished, providing the savings account is opened with a bank or savings and loan association and an assignment of the account is executed by the taxpayer or authorized individual and accepted by the bank or savings and loan association. If the business is a sole proprietorship, ~~T~~the savings account may be in the business name or individual's name~~, if a sole proprietorship;~~. If it is a partnership, the account will be jointly in the names of the partners ~~of a partnership; or~~. ~~i~~In the ~~name~~ instance of a corporation, it can be in the corporation's name with the assignment properly executed by the officer or officers with the delegated authority to sign documents for the corporation. ~~(3-31-22)~~( )

05. Release of Security. Security which has been previously posted may be released by the Tax Commission upon receipt of a written request from the retailer if, after careful review of the circumstances, the Tax Commission determines that security is no longer ~~required~~ needed. A request may be made one (1) year after posting the security. Security will also be released upon the retailer's termination of its retail activities. In either case, if the Tax Commission deems necessary, an audit may be conducted prior to the release of any security. ~~(3-31-22)~~( )

117. REFUND CLAIMS ~~(RULE 117)~~.

Sections 63-3612, 63-3613, 63-3619, 63-3626, 63-3629(c), 63-3631, 63-3045, 63-3045B, 63-3049, 63-4408, Idaho Code

01. In General. An ~~A~~application for a refund of sales or use taxes paid in excess of ~~those properly imposed by the Sales Tax Act, is to be in~~ the amount lawfully due will be made in accordance with the provisions of this ~~rule~~ section. ~~(3-31-22)~~( )

02. Payment of Sales Tax by a Buyer to a Vendor. When a buyer ~~has~~ paid sales tax to a vendor, and later determines that the sales tax was paid in error, the buyer needs to request the refund from the vendor to whom the excess tax was paid. If the buyer can provide evidence that the vendor ~~has~~ refused to refund the tax, they may ~~then~~ file a claim for refund directly with the Tax Commission. ~~(3-31-22)~~( )

03. Payment of Sales or Use Tax Directly to the State. When a person holding a seller's permit or use tax account ~~number has~~ paid tax to the state, and later determines that the sales or use tax was paid in error, they may file a claim for refund directly with the Tax Commission. ~~(3-31-22)~~( )

04. Bad Debts. Claims for refunds arising from bad debts are to be filed with the Tax Commission in the manner prescribed by ~~this Rule 117 and Rule~~ Section 063 ~~of these rules~~. ~~(3-31-22)~~( )

05. Mathematical Errors. ~~When the~~ If a filer of sales or use tax returns ~~determines~~ discovers that a mathematical error ~~has been~~ was made on a previously filed return resulting in overpayment of ~~the proper amount of sales or use~~ taxes, they may ~~file~~ submit a claim for a refund directly ~~with~~ to the Tax Commission. ~~(3-31-22)~~( )

06. Refund Claims. A refund claim~~, however,~~ is to be in writing and include the following information: ~~(3-31-22)~~( )

a. Full name, address, and phone number of the claimant; (3-31-22)

b. Claimant's seller's permit number or use tax account number if claimant has such a number; (3-31-22)

c. The amount of the refund claimed; (3-31-22)

d. A detailed statement of the reason the claimant believes refund is due; (3-31-22)

e. An itemized description of the specific goods or services to which the tax relates; (3-31-22)

f. The date on which the claimed excess taxes were paid; (3-31-22)

g. Documentation showing the amount of Idaho sales tax paid; ( )

gh. If the claimant is the ~~retailer~~ seller, ~~a statement under oath that the amount of tax plus interest has been or will be~~ documentation showing tax and interest, if applicable, has been refunded to the buyer; ~~and~~ ~~(3-31-22)~~( )

hi. If the claim is for bad debt, detailed ~~individual~~ account payment information for each customer and each item purchased for which a refund is claimed.; and ~~(3-31-22)~~( )

ij. ~~A refund claim must be filed within three (3) years from the time the payment was made to the Commission.~~ If a refund claim ~~does not~~ doesn't include the ~~required~~ information listed in Subsections 117.06.a. through ~~h~~i., as applicable, then the claim ~~does not~~ doesn't satisfy the requirement to file a written claim to stop the period of limitations ~~provided in Section 63-3626(b)(1), Idaho Code,~~ from running. A refund claim that ~~does not~~ doesn't include ~~the required~~ this information will be denied and processed as set out in Subsection 117.11 ~~of this rule~~. ~~(3-31-22)~~( )

07. Outstanding Liabilities. No claim for refund will be approved or issued unless the claimant first satisfies outstanding liabilities for taxes administered by the Tax Commission. ~~(3-31-22)~~( )

~~**08. Payment Under Protest**. It is not necessary for a taxpayer to pay taxes under protest in order to subsequently be able to claim a refund of such taxes.~~ ~~(3-31-22)~~

0~~9~~8. Statute of Limitations. A claim for refund ~~will not~~ won't be allowed if it is filed more than three (3) years from the time the ~~payment of the~~ tax was ~~made~~ paid. If the claim is made by a person who doesn't hold a seller's permit or use tax account, ~~T~~the time the ~~payment~~ tax was ~~made~~ paid is the date upon which the applicable sales or use tax return relating to the payment was filed with the Tax Commission. ~~(3-31-22)~~( )

~~1~~09. Taxes Paid in Response to a Notice of Deficiency Determination. A claim for refund ~~may not~~ can't be filed relating to any sales or use taxes which have been asserted by a notice of deficiency determination. A taxpayer contending that taxes have been erroneously or illegally collected by the Tax Commission in conformance with a notice of deficiency determination can seek a refund by using the appeal procedures outlined in IDAPA 35.02.01.320 through 328~~, "Tax Administration and Enforcement Administrative Rules."~~ ~~(3-31-22)~~( )

1~~1~~0. Denial of a Refund Claim. All claims for refund or credit will be reviewed by the Tax Commission's staff. If the staff concludes that all or part of the claim shouldn't ~~not~~ be allowed, notice of denial of the claim will be given ~~to the claimant by first class mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice will include a statement of the reasons for the denial. The notice of denial will be the equivalent of a notice of deficiency determination. If the taxpayer wishes to seek a redetermination of the denial notice, they can file a petition for redetermination in the manner prescribed in IDAPA 35.02.01.320 – 328, "Tax Administration and Enforcement Administrative Rules." A petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to or served on the claimant~~ per the Sales Tax Act. ~~(3-31-22)~~( )

1~~2~~1. Interest on Refunds. See ~~Rule~~ Section 122 ~~of these rules~~. ~~(3-31-22)~~( )

~~**13. Cross Reference**. See Rule 003 of these rules, Administrative Appeals.~~ ~~(3-31-22)~~

118. RESPONSIBILITY FOR PAYMENT OF SALES TAXES DUE FROM CORPORATIONS, LIMITED LIABILITY COMPANIES, AND PARTNERSHIPS ~~(RULE 118)~~.
Sections 63-3045, 63-3049, 63-3065, 63-3074, 63-3634, Idaho Code

01. Corporate Officers Duty to Pay Sales Tax. Individuals including corporate officers and

employees with the duty to cause a corporation or a limited liability company to file a sales tax return or to pay sales tax when due, or any partnership member or employee with such duty, will become liable for payment of the tax, penalty and interest due from the corporation or partnership if they fail to carry out their duty. Any such responsible individual has the defenses, remedies, and recourse provided in ~~Sections 63-3045, 63-3049, 63-3065 and 63-3074,~~ Idaho Code~~,~~ and will be afforded notice and opportunity to be heard on the question of such liability.~~(3-31-22)~~( )

02. Penalty for Failure to Collect. Any individual ~~required~~ mandated to collect, account for, and pay over any tax who willfully fails to carry out or execute ~~his~~ their duty will ~~be required~~ have to pay, in addition to the tax, penalty, and interest, an additional amount equal to the total amount of tax involved. This penalty is in addition to all other penalties provided in Section 63-3634, Idaho Code. ~~(3-31-22)~~( )

119. SUCCESSOR'S LIABILITY ~~(RULE 119)~~.
Section 63-3628, Idaho Code

01. Making Inquiries. ~~Section 63-3628, Idaho Code, provides that w~~When a vendor sells out ~~his~~ their business or stock of goods, the buyer is to make an inquiry of the Tax Commission and withhold from the purchase price any amount of tax that may be due until such time as the vendor, seller, produces a receipt stating that no tax is due. If the buyer fails to withhold from the purchase price the tax due, they become~~s~~ personally liable for the tax. ~~(3-31-22)~~( )

02. Written Inquiry ~~Required~~. The buyer is to make a written inquiry to the Boise Office of the State Tax Commission setting forth the following: ~~(3-31-22)~~( )

a. The name, location, and seller's permit number of the business they are purchasing. (3-31-22)

b. A statement that they are purchasing the business or stock of goods. (3-31-22)

c. An inquiry as to any sales or use tax liability of the business they are purchasing. (3-31-22)

03. Copy of Earnest Money. The buyer is to attach to the written inquiry a copy of any earnest money or similar agreement already entered into with the prospective seller. If no earnest money agreement has been entered into, then the seller ~~must~~ will provide written authorization to the ~~State~~ Tax Commission to release the information to the prospective buyer. ~~(3-31-22)~~( )

04. Written Statement from State Tax Commission. The Tax Commission, after receiving the written inquiry from the buyer as to the amount due, will issue a written statement to the buyer setting forth the amount of tax due by the seller, if any. The Tax Commission will advise the prospective buyer only of any amount of sales or use tax that may be due to the Tax Commission under the Sales Tax Act. The release of any other information ~~is not~~ isn't authorized. In the case that the prospective buyer requests to see the prospective seller's sales or use tax filing record in order to determine if the business is profitable, the prospective seller is to provide a Power of Attorney appointing the prospective buyer as attorney in fact to receive confidential information regarding sales or use tax filings on behalf of the prospective seller. ~~(3-31-22)~~( )

05. Application for Seller's Permit Number. Upon final sale, the buyer files an application Form IBR-1 for a new seller's permit number with the Tax Commission. ~~The seller must forward his seller's permit to the Commission for cancellation.~~ ~~(3-31-22)~~( )

120. JEOPARDY DETERMINATION ~~(RULE 120)~~.
Section 63-3630, Idaho Code

If collection of any part of a tax ~~required~~ is to be paid to the state, ~~of~~ or if any determination or redetermination will be jeopardized by delay, the Tax Commission will make a determination of the tax or amount ~~required~~ to be collected, ~~noting t~~The need for expeditious procedure and the amount of ~~required~~ mandated security upon the assessment will be noted. The amount determined to be due to the state is immediately payable. ~~and, if not~~ If it isn't paid immediately after service of notice of the deficiency, it may be ~~entered~~ recorded as a final assessment and collected by judgment processes or through use of any collection procedure available to the Tax Commission's office. ~~If, within thirty (30) days, the taxpayer files for redetermination and deposits with his petition for redetermination such security as the~~

~~Commission may, in this specific case, deem necessary to ensure compliance with this act, collection of the deficiency assessment will be delayed pending redetermination.~~ Hearings and other procedures will then proceed in accordance with the ~~rules pertaining thereto~~ applicable procedures. ~~(3-31-22)~~( )

121. (RESERVED)

122. INTEREST ON DEFICIENCIES, REFUNDS, AND ESTIMATED RETURNS ~~(RULE 122)~~.
Sections 28-22-104, 63-3045, 63-3630, Idaho Code

01. Interest Rate. The rate of interest on deficiencies or refunds of tax is determined annually as provided in Section 63-3045, Idaho Code, and IDAPA 35.02.01, ~~"Tax Commission Administration and Enforcement Rules," Rule~~ Section 310. All interest on sales or use tax deficiencies is simple interest. ~~Interest applies only to tax and not to penalties.~~ ~~(3-31-22)~~( )

02. Interest Accru~~ing~~al During a Period Subject to Audit. ~~-~~ ( )

a. Signal Period. Interest on deficiencies begins to accrue~~s~~ from the due date of the return to which the deficiency relates. Interest ~~O~~on refunds~~, the interest~~ begins to accrue~~s~~ from the due date of the return or date of payment, whichever is later. ~~-~~ ( )

b. Multiple Periods. ~~However, w~~When a deficiency is asserted or a refund is claimed ~~or a deficiency is asserted~~ for a period of time which includes several reporting periods, ~~in lieu of calculating interest for each reporting period,~~ interest may be averaged over the interest rate period if no substantial distortion results from the averaging technique. When averaging interest, sales or purchases of extraordinary amounts outside the usual course of business which would substantially distort the result should be excluded from the averaging calculation and interest calculated separately on such transactions. Average interest, accruing during an interest rate period, may be calculated according to the following formula:

Formula: $\frac{(N \times R) - R}{2}$

N = Number of reporting periods in interest rate period.
R = Interest rate per reporting period, e.g., one percent (1%) for monthly filers, three percent (3%) for quarterly filers, at a 12% annual interest rate, etc. ~~(3-31-22)~~( )

03. Alternate Formulas. Alternatively, interest may be calculated according to such other formula as the taxpayer and the Tax Commission's sales tax audit staff may agree to apply. ~~(3-31-22)~~( )

04. Estimated Returns. Interest on estimated returns accrues at an annual rate as provided in Section 63-3045, Idaho Code, and IDAPA 35.02.01, ~~"Tax Commission Administration and Enforcement Rules," Rule~~ Section 310. ~~(3-31-22)~~( )

05. ~~Failure to Register~~Unpermitted Taxpayers. For the calculation of interest on a deficiency, unpermitted ~~T~~taxpayers ~~who failed to have a tax number in a period where a deficiency exists will be, for interest computation purposes, considered to be~~ are treated as monthly filers. ~~(3-31-22)~~( )

06. Judgments. Nothing in this rule is intended to ~~effect~~ affect interest rates on judgments pursuant to Section 28-22-104(2), Idaho Code. ~~(3-31-22)~~( )

123. ADDITIONS AND PENALTIES ~~(RULE 123)~~.
Sections 63-3046, 63-3075, 63-3076, 63-3077, 63-3624 (i), 63-3634, Idaho Code
All additions and penalties provided ~~by Sections 63-3046, 63-3075, 63-3076 and 63-3077,~~ in Idaho Code~~,~~ are incorporated in the Sales Tax Act. ~~(3-31-22)~~( )

01. Substantial Underpayment. For purposes of enforcing the substantial underpayment penalty ~~provided by Section 63-3046(d), Idaho Code~~, the term taxable year, is for purposes of the Sales Tax Act, the twelve (12) month calendar period for ~~which an~~ annual reconciliation ~~is required~~. The returns, for purposes of such taxable year, are the returns ~~required to be~~ filed under ~~Rule~~ Section 105 ~~of these rules~~. The taxpayer's entire calendar year or

fiscal tax year is any fraction of a twelve (12) month period occurring prior to filing a final report. ~~(3-31-22)~~( )

~~**02. Repeated or Intentional Invalid Exemption Claims**. A buyer who repeatedly or intentionally claims exemption from tax on purchases that are not exempt and has not reported and paid use tax on the purchases, owes the tax plus the interest prescribed in Rule 122 of these rules and may also be assessed a penalty of five percent (5%) of the purchase price of the goods or services, or two hundred dollars ($200), whichever is greater. (3-31-22)~~

124. COLLECTION AND ENFORCEMENT ~~(RULE 124)~~.
Sections 63-3633, 63-3635, Idaho Code
~~Incorporation of Rules.~~ The rules promulgated by the Tax Commission ~~entitled "Idaho Tax Commission Administration and Enforcement Rules" apply to the administration and enforcement of the Idaho Sales Tax Act~~ under IDAPA 35.02.01. ~~(3-31-22)~~( )

125. ~~DISTRIBUTION OF SALES TAX REVENUES (RULE 125).~~(RESERVED)
~~Section 63-3638, Idaho Code~~
~~Refer to IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 995 for information on distribution of sales tax revenues to cities, counties and other special purpose taxing districts. (3-31-22)~~

126. SALES TAX COLLECTED BY THE IDAHO STATE LIQUOR ~~DISPENSARY~~ DIVISION ~~(RULE 126)~~.
Sections 23-105, 23-1303, 23-1001, 63-3638A, Idaho Code

~~**01. Liquor Subject to Sales Tax**. All sales of liquor which includes alcohol, spirits, beer, and wine as defined in Sections 23-105(g), 23-1303(a), and 23-1001(a), Idaho Code, unless specifically exempt, are taxable. (3-31-22)~~

0~~3~~1. Sales for Resale. In the case of sales to persons licensed under the provisions of Title 23, Chapter 9, Idaho Code, only those purchases for resale by an establishment licensed to sell liquor will be exempt from the tax. If the licensee buys liquor for any purpose other than for resale, the licensee is subject to the use tax. (3-31-22)

0~~3~~2. Reporting. The superintendent of the Idaho State Liquor ~~Dispensary~~ Division will forward monthly to the Tax Commission a report of all sales tax collected for the preceding month. All sales tax collected by the superintendent of the Idaho State Liquor ~~Dispensary~~ Division and by contract private liquor stores, when the product is supplied by the Idaho State Liquor ~~Dispensary~~ Division, will be credited directly to the liquor account, and not become a part of the sales tax account. ~~(3-31-22)~~( )

127. ~~FREE DISTRIBUTION NEWSPAPERS (RULE 127).~~(RESERVED)
~~Sections 63-3622, 63-3622T, Idaho Code~~

~~**01. Newspaper Format**. The term "newspaper format" means a publication bearing a title, issued regularly at stated intervals of at least twelve (12) times a year, and formed of printed paper sheets without binding. Catalogs, advertising fliers, travel brochures, employee newsletters, theater programs, telephone directories, restaurant guides, posters, and similar publications are not publications in newspaper format. (3-31-22)~~

~~**02. Purchase or Use of Tangible Personal Property**. The purchase or use of tangible personal property used to produce newspapers distributed to the public free of charge is exempt from sales or use taxes if the requirements of Section 63-3622T, Idaho Code are met. (3-31-22)~~

~~**03. Qualifying for Exemption**. To qualify for the exemption at least ten percent (10%) of the total newspaper, computed on an average annual column inch basis, need to be devoted to the publication of non-income producing informative material. Advertisements promoting the free distribution newspaper itself do not qualify as non-income producing informative material. Neither do logos, column headings, mastheads, borders, etc. (3-31-22)~~

128. CERTIFICATES FOR RESALE AND OTHER EXEMPTION CLAIMS ~~(RULE 128)~~.
Sections 63-3612, 63-3621, 63-3622, 63-3622A - 63-3622WW, 63-3624, Idaho Code

01. In General. This ~~rule~~ section applies to proper documentation for exempt purchases of tangible

personal property for resale and all other exemption claims for taxable transactions enumerated in ~~Section 63-3612,~~ Idaho Code. ~~All forms approved by this rule may be reproduced.~~ ~~(3-31-22)~~( )

02. Burden of Proof. All sales made within Idaho are presumed to be taxable unless the seller obtains from the buyer a properly executed resale or exemption certificate. If the seller ~~does not~~ doesn't have an exemption certificate on file, ~~it~~ the seller will have the burden of proving that a sale ~~is not~~ isn't taxable. The seller may overcome the presumption by establishing the facts ~~giving rise to~~ of the exemption. If the seller obtains a ~~valid~~ properly executed certificate from the buyer, the seller need not collect sales or use taxes ~~unless the sale of the tangible personal property or the transaction in question is taxable to the buyer as a matter of law in the particular instance claimed on the certificate~~. ~~(3-31-22)~~( )

~~**03. Description and Proper Execution of Approved Forms**. In order to be valid, all forms are to be legible and include a date, the buyer's name, signature, and address. If the buyer has a federally issued Employer Identification Number (EIN), the buyer will include that EIN on the form. If the buyer does not have an EIN, the buyer will provide the buyer's driver's license number and the state of issue. The seller's name and address are to be completed on the form when requested. The buyer will comply with any additional requirements provided in these rules.~~ ~~(3-31-22)~~

~~**04. Form ST-101, Sales Tax Resale or Exemption Certificate — Buying for Resale**. To claim a resale exemption, Form ST-101, or a Uniform Sales and Use Tax Certificate — Multi-jurisdiction, is completed. The resale certificates approved by this rule may only be taken from a buyer described in Subsection 128.04.b. The reason for the claimed exemption is included on the form as well as the primary nature of business and the type of products sold, leased or rented by the buyer. An Idaho registered retailer includes its Idaho seller's permit number. A buyer need not identify every type of product it sells but indicates the general character of the property it sells, rents or leases.~~ ~~(3-31-22)~~

~~**a.** Information on the resale certificate. The resale certificate bears the name and address of the buyer, the name and address of the seller, is signed and dated by the buyer or his agent, indicates the Idaho seller's permit number issued to the buyer, or that the buyer is an out-of-state retailer, and indicates the general character of the tangible personal property sold by the buyer in the regular course of business. By executing the resale certificate, the buyer is certifying that the specific property is being purchased for resale.~~ ~~(3-31-22)~~

~~**b.** Qualified Buyers. The resale exemption may be claimed by the following buyers when buying goods for resale:~~ ~~(3-31-22)~~

~~i. A retailer or wholesaler doing business in Idaho who holds a current and valid Idaho seller's permit number.~~ ~~(3-31-22)~~

~~ii. A wholesaler who makes no retail sales and who is not required to hold an Idaho seller's permit number.~~ ~~(3-31-22)~~

~~iii. An out-of-state retailer who makes not more than two (2) sales in Idaho in any twelve (12) month period and is not required to hold an Idaho seller's permit number.~~ ~~(3-31-22)~~

~~**c.** Seller's Responsibility. A seller is not liable for the collection of sales tax on items sold to a customer from whom the seller has obtained a properly executed Sales Tax Resale and Exemption Certificate, Form ST-101, if the customer intends to resell the items in the regular course of business. The seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented unless the sale fits into the narrow classification of sales that can be considered to be taxable as a matter of law in the particular instance claimed on the resale certificate. If the particular item being purchased for resale does not commonly match the description of the general character of the tangible personal property as identified on the resale certificate, then it is presumed that the sale is taxable as a matter of law; however, if the seller questions the buyer and the buyer provides a new certificate specifically identifying the property in question as being purchased for resale, then the seller can accept the certificate and is relieved of any further responsibility.~~ ~~(3-31-22)~~

~~**d.** Example. A grocery store that in addition to groceries sells miscellaneous items such as cosmetics, magazines, and school supplies. The store would provide its Idaho seller's permit number and describe the primary~~

nature of its business as selling groceries. It could buy cosmetics, magazines, and school supplies for resale and it does not need to list those items on the resale certificate. It only needs to indicate the general character of the property it sells as groceries. (3-31-22)

e. Example. A lawn and garden store occasionally sells barbecue grills as promotional items. Even though it describes lawn and garden items as the types of products it sells, it can buy the grills for resale. (3-31-22)

f. Example. A grocery store describes the primary nature of its business as selling groceries. It then buys an automobile for resale. The grocery store should provide the automobile seller a resale certificate for this transaction and identify its primary nature of its business as grocery and indicate it is specifically buying the automobile for resale. (3-31-22)

g. Example: A restaurant operator completes a Form ST-101 for his supplier. He indicates the general character of the products he sells as food and beverages. The restaurant operator buys sugar and flour from the supplier. The supplier is not liable for the collection of the sales tax as the character of the goods is that which the restaurant operator will resell in the regular course of business. The resale claim made by the restaurant operator is available as a matter of law. (3-31-22)

h. Example: The same restaurant operator later buys dish towels and dish washing soap. The supplier collects the tax. The general character of the goods are not those sold by a restaurant in the normal course of business. The exemption claimed by the restaurant is not available as a matter of law. However, if the restaurant operator identifies cleaning supplies as one of the types of items it resells, either on the original certificate or on a new certificate, then the supplier need not collect the tax. (3-31-22)

i. Example: An appliance store buys appliances and some furniture for resale from a supplier. The appliance store has a resale certificate on file with the supplier. The supplier also sells warehouse equipment as part of its business. The appliance store buys a forklift from the supplier. The supplier should charge tax. However, if the furniture store provides a new certificate indicating it will sell the forklift, the supplier has no duty or obligation to collect the tax. Without the new certificate, an objectively reasonable person would not assume a furniture store sells forklifts. Additionally, the furniture store is only buying one (1) forklift and this fact indicates to the supplier that it is not buying the forklift for resale. (3-31-22)

05. Form ST-101, Sales Tax Resale and Exemption Certificate -- Claiming Exemptions. A Form ST-101 is completed to claim the sales tax exemptions for the following categories. The buyer identifies the exempt category and specific area within the category for the exemption being claimed. If claiming to be production exempt, the taxpayer identifies the type of business and list the product produced. When claiming a contractor exemption, the invoice, purchase order or job number will be identified along with the city and state of the job location, project owner name, and the reason the project is exempt. (3-31-22)

a. Form ST-101 Exemption Categories; (3-31-22)

i. Production Exemptions; (3-31-22)

ii. Exempt Buyers; (3-31-22)

iii. Contractor Exemptions; and (3-31-22)

iv. Other Exempt Goods and Buyers (3-31-22)

b. Information on the exemption certificate. An exemption certificate shows the buyer's name and address, business name and address, and be signed and dated by the buyer. The buyer also provides on the certificate the specific exemption being claimed and, if the production exemption is being claimed, a list of the products the buyer produces. If the buyer is claiming the contractor exemption, the buyer identifies the invoice, purchase order, or job number to which the claim applies, the city and state where the job is located, and the name of the project owner. If the buyer is claiming an exemption as an American Indian, then the buyer provides a valid Tribal I.D. number. By signing the exemption certificate, the buyer is certifying that the purchase qualifies for an exemption from tax. (3-31-22)

~~e. Seller's Responsibility. A seller is not liable for the collection of sales tax on items sold to a customer from whom a properly executed Form ST-101, has been received if the nature of the exemption claimed is available to the buyer as a matter of law or the nature of the goods purchased qualify for the particular exemption claimed on the certificate. (3-31-22)~~

~~i. A retailer collects tax on the sale of any goods that are specifically excluded from an exemption as a matter of law. For example, a buyer claiming the production exemption provided by Section 63-3622D, Idaho Code, may not claim an exemption on the sale of items that are specifically excluded from the exemption as a matter of law, such as: maintenance and janitorial equipment and supplies, office equipment and supplies, selling and distribution equipment and supplies, property used in transportation activities, equipment or other property used to make repairs, tangible personal property that becomes a fixture, improvement, or component of real property, licensed motor vehicles, aircraft; and recreation-related vehicles as described in Section 63-3622HH, Idaho Code. (3-31-22)~~

~~ii. A retailer cannot rely on an exemption certificate obtained from a buyer when the law does not provide an exemption from the tax for the buyer, such as a nonprofit organization not specifically exempted by the sales tax law or a governmental agency of another state. (3-31-22)~~

~~iii. Nor can a retailer rely on an exemption certificate when the limited language of the law pertaining to the exemption claimed excludes all but certain goods from the exemption. For example, certain contractors can execute an ST-101 to purchase construction materials for specific jobs in non-taxing states claiming an exemption from tax under Section 63-3622B, Idaho Code, and Rule 012 of these rules. The retailer collects tax on any goods that are not to be incorporated into the real property, such as parts for construction equipment and tools. (3-31-22)~~

~~d. Buyer's Responsibility. A buyer has the responsibility to properly complete a certificate and ensure that tax is charged on all taxable purchases. If the buyer properly provides a certificate and normally makes exempt purchases, he nevertheless ensures that tax is paid when a taxable purchase is made. If the seller does not charge the tax on a taxable purchase the buyer either notifies the seller to correct the billing and then pays the sales tax to the seller, or accrues and remits use tax on the transaction. If the buyer intentionally or repeatedly makes purchases, claiming they are exempt, when in fact they are not exempt, and the buyer fails to remit use tax, a penalty can be imposed in addition to the use tax. The penalty amount that may be asserted against the buyer is five percent (5%) of the sales price or two hundred dollars ($200), whichever is greater. The penalty will be asserted by the Commission as a Notice of Deficiency but the buyer may have the penalty abated when he can establish that there were reasonable grounds for believing that the purchase was properly exempt from tax. In addition, if the buyer gives a resale or exemption certificate with the intention of evading payment of the tax, the buyer may be charged with a criminal misdemeanor and could be punished by a fine not exceeding one thousand dollars ($1,000) or imprisonment for not more than one (1) year, or by both a fine and imprisonment. (3-31-22)~~

~~e. Example: A garden supply store sells, among other things, soil and wood chips in large quantities. It buys a loader to use in its business to load items into customers' trucks. When buying the loader, the garden supply store gives a resale certificate to the seller indicating it intends to resell the loader. However, upon purchase the loader is capitalized on the books of the garden supply store. The Commission could impose a penalty equal to five percent (5%) of the purchase price of the loader against the garden supply store. This penalty is in addition to the use tax that is due. The individual who executed the certificate, or authorized the execution, on behalf of the garden supply store, if done with intent to evade payment of the tax, could be criminally charged with a misdemeanor. (3-31-22)~~

~~f. Example: A restaurant buys food for resale from a supplier. It can properly give a resale certificate to the supplier. Since it buys food on a continuing basis the supplier keeps a certificate on file. If the restaurant buys cleaning supplies for its own consumption, the supplier should charge sales tax. If it fails to charge tax, the restaurant should notify the supplier to correct the billing and collect the sales tax. If the restaurant fails to pay sales or use tax on more than one purchase, then, under Section 63-3624, Idaho Code, the Commission can assert a use tax and a penalty against the restaurant. (3-31-22)~~

~~g. Example: A farmer completes an ST-101 claiming a production exemption on the purchase of toothpaste and a case of motor oil. The retailer collects the sales tax on the sale of the toothpaste, but is not liable for the collection of the sales tax on the sale of the motor oil. The retailer cannot rely on the exemption certificate when selling the toothpaste because, as a matter of law, the sale of personal hygiene products is excluded from the~~

~~production exemption. But the retailer can rely on the exemption certificate when selling goods, such as the motor oil, which the farmer could put to either a nontaxable use (e.g., oil for a tractor), or a taxable use (e.g., oil for a licensed pickup truck).~~ ~~(3-31-22)~~

06~~3~~. **Tax Exemption Statements**. In lieu of an exemption ~~F~~form ~~ST 101~~, ~~retailers,~~ when selling property that the buyer claims is entitled to the exemptions listed below, seller may stamp or imprint on the face of their sales invoices, or buyers may stamp or imprint on the face of their purchase orders, a statement containing identifying information as stated in Idaho Code, as well as the language prescribed in this ~~rule~~ section. ~~(3-31-22)~~( )

a. ~~A tax exemption statement is to be signed by the buyer and the name, address, and nature of business of the buyer is shown on the invoice. The signature on the statement is in addition to any other signature required on the invoice. If no Form ST-101 is on file with the vendor, then each exempt sale is to be documented as described in this subsection. Any person who signs this certification with the intention of evading payment of tax is guilty of a misdemeanor.~~This statement is to include the following identifying information: buyer's name, buyer's address, a federal Employer Identification Number (EIN) or driver's license number and state of issue. Depending on the exemption claimed, the following language is to be used: ~~(3-31-22)~~( )

~~b~~i. Production or Logging Exemption. ~~A tax exemption statement can be used when selling property that the buyer claims is entitled to the production exemption or the logging exemption. The statement can be made by either:~~ ~~(3-31-22)~~( )

~~i.~~(1) ~~Having the seller stamp or imprint the following statement on the face of their sales invoices; or~~The invoice, receipt, or stamp will show the purchaser's name, business name, address, federal employer identification number or driver's license number with state of issue, signature, date, and the reason for the claimed exemption. ~~(3-31-22)~~( )

~~ii.~~(2) Having the seller stamp or imprint the following statement on the face of their purchase orders, a certificate containing the following language: (3-31-22)

I certify that the property which I have here purchased will be used by me directly and primarily in the process of producing tangible personal property by mining, logging, manufacturing, processing, fabricating, or farming, or as a repair part for equipment used primarily as described above.

_____
NATURE OF BUSINESS

_____
BUYER'S SIGNATURE

(3-31-22)

~~e~~ii. Matter Used to Produce Heat by Burning. A tax exemption statement can be used when selling materials that the buyer claims will be used to produce heat by burning as defined in ~~Rule~~ Section 088 ~~of these rules~~ and for which no bulk delivery ~~will be~~ is made. ~~The statement can be made by either:~~ ~~(3-31-22)~~( )

~~i.~~(1) ~~Having the seller stamp or imprint the following statement on the face of their sales invoices; or~~The invoice, receipt, or stamp will show the purchaser's name, business name, address, federal employer identification number or driver's license number with state of issue, signature, date, and the reason for the claimed exemption. ~~(3-31-22)~~( )

~~ii.~~(2) Having the buyer stamp or imprint on the face of their purchase order, a statement that contains the following language: (3-31-22)

I certify that the ~~matter I have~~ fuel purchased will be used in a ~~furnace or similar~~ device for the purpose of ~~water heating, cooking,~~ domestic home use or ~~raising or maintaining the temperature in~~ heating an enclosed space, dwelling, or building.

Any person who signs this statement with the intention of evading payment of tax is responsible for tax due, interest and penalty.

BUYER'S SIGNATURE

~~(3-31-22)~~( )

~~**07. Form ST-102, Use Tax Exemption Certificate – New Resident**. To claim exemption for vehicles, vessels, and aircraft that were personally owned and acquired while residing in another state and used primarily outside Idaho, new residents and nonresident military individuals need to complete Form ST-102. (3-31-22)~~

~~**08. Form ST-104G, Sales Tax Exemption Claim for Cash Purchases by Governmental Agencies**. Form ST-104G may be completed only by federal or, Idaho state, and local government agencies making cash purchases and is to be furnished to the vendor at the time of sale. Each transaction requires a newly executed form signed by the agency's purchasing agent and the employee/buyer. Blank forms will be furnished to government agencies by the Commission upon request. The form cannot be used for lodging and meals bought by a traveling government employee nor for any other reasons enumerated on the form. (3-31-22)~~

~~**09. Form ST-104HM, Sales Tax Exemption Certificate – Lodging Accommodations**. Form ST-104HM is used to claim exemption for lodging accommodations paid for using a credit card company who will directly bill to and be paid by federal or, Idaho state, and local government agencies or other qualifying organizations granted exemption under Section 63-3622O, Idaho Code. This form should not be used for credit card payments that are paid by the employee who is later reimbursed by the employer. Each lodging transaction requires a newly executed form signed by the employee/buyer. (3-31-22)~~

~~**10. Form ST-104IC, Sales Tax Exemption Certificate – Interstate Commerce Vehicles**. Form ST-104IC is to be completed by a buyer claiming an exemption from tax under Section 63-3622R, Idaho Code, when purchasing a qualifying motor vehicle, trailer, or glider kit. (3-31-22)~~

~~**11. Form ST-104NR, Sales Tax Exemption Certificate – Vehicle/Vessel**. Form ST-104NR is completed by each buyer claiming an exemption from tax under Section 63-3622R, Idaho Code, when a nonresident buyer is purchasing a qualifying vehicle, vessel, or trailer. (3-31-22)~~

~~**12. Form ST-108TR, Occasional Sale Exemption Claim – Office Trailer and Transport Trailer**. Form ST-108TR is completed by any person claiming the occasional sale exemption on the purchase of a transport trailer or an office trailer. The seller completes the seller's statement section in order for the buyer to claim the occasional sale exemption. (3-31-22)~~

~~**13. Form ST-111, Sales Tax Exemption Claim Form – Grocer**. Retailers of food products who have been granted record reduction authority by the Commission may accept the Form ST-111 from a buyer if the retailer has a properly executed Form ST-101 on file from the buyer. Form ST-111 includes the buyer's Idaho seller's permit number (if applicable), the signature of the individual claiming the exemption, and the total purchase price and general nature of the nontaxable products sold. (3-31-22)~~

~~**14. Form ST-133, Sales Tax Exemption Certificate – Family or American Indian Sales**. (3-31-22)~~

~~**a.** Family Sale. Form ST-133 is completed when claiming an exemption from tax when selling a motor vehicle to a relative under the exemption provided by Section 63-3622K, Idaho Code. (3-31-22)~~

~~**b.** American Indian Sales. Form ST-133 is completed when claiming an exemption from tax when selling a vehicle, vessel, or RV to a member of an American Indian tribe within the boundaries of an American Indian reservation. (3-31-22)~~

~~**15. Form ST-133CATS, Sales Tax Exemption Certificate – Capital Asset Transfer Affidavit**. Form ST-133CATS is required under the provisions of Section 63-3622K, Idaho Code, when claiming an exemption from tax on the sale of certain vehicles included in the bulk sale of a business' assets when the new owner will continue to~~

~~operate the business in a like manner; for qualifying transfers of certain capital assets through sale, lease or rental; and, for the transfer of vehicles to and from a business or between qualifying businesses when there is no change other than owners' equity.~~ ~~(3-31-22)~~

~~**16. Form ST-133GT, Use Tax Exemption Certificate – Gift Transfer Affidavit**. Form ST-133GT is completed to claim an exemption from tax when a vehicle, vessel, camper, trailer, or recreational vehicle is being transferred or received as a gift.~~ ~~(3-31-22)~~

~~**17. The Diplomatic Tax Exemption Program**. This United States government program grants immunity from state taxes to diplomats from certain foreign countries. A federal tax exemption card issued by the U.S. Department of State bears a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. Additional information is provided in Rule 098 of these rules.~~ ~~(3-31-22)~~

~~18~~04. **Timely Acceptance of Certificates**. ~~A seller may accept a certificate from a buyer prior to the time of sale, at the time of sale, or at any reasonable time after the sale to establish the exemption claim, w~~With the exception of Forms ST-104HM and ST-104G which is to be provided at the time of sale. ~~The sale is presumed to be taxable if no approved certificate is obtained from the buyer in the manner provided or permitted by this rule.~~ ~~(3-31-22)~~( )

a. Certificates obtained by a seller at a time subsequent to, but not within a reasonable time after, the time of sale will be considered by the Tax Commission in conjunction with all other evidence available to determine whether or not the seller has established that a sales tax transaction is exempt from tax. ~~(3-31-22)~~( )

~~**b.** Example: A retailer sells goods to a customer without charging the sales tax but does not obtain an ST-101 from the customer. Instead, the customer writes his Idaho seller's permit number on the invoice when he signs for the goods. The retailer is later audited by the Commission and fails in an attempt to obtain a certificate from his customer. The retailer argues that the Idaho seller's permit number written on the invoice is evidence that the customer purchased the goods for resale. However the number by itself does not establish that the customer bought the goods for resale. The retailer is liable for the tax on the sale.~~ ~~(3-31-22)~~

~~**c.** Example: A retailer sells a truck load of hay to a customer, does not charge sales tax on the transaction, and fails to obtain an ST-101. The retailer is later audited by the Commission and is unable to obtain an ST-101 from the customer. The retailer argues that hay is a farm supply and this alone should establish that the sale is exempt. However, the customer may be in a business which does not qualify for the farming production exemption, such as racing or showing horses. Or, the customer may be using the hay for a nonbusiness purpose, such as raising animals for his own consumption. The retailer is liable for the tax on the sale.~~ ~~(3-31-22)~~

~~d~~b. When the Tax Commission issues a Notice of Deficiency Determination ~~has been issued~~ to a seller, ~~by the Commission and~~ the seller may petition~~s~~ for redetermination as provided by IDAPA 35.02.01.320 - 328, ~~"Tax Administration and Enforcement Administrative Rules,"~~. They may submit certificates obtained from ~~his~~ their customers as evidence of exemption claims, but only if the certificates are presented to the Tax Commission within ninety (90) days of the date of the Notice of Deficiency Determination. ~~(3-31-22)~~( )

05. Examples. Available at Sales and Use Tax Rules Examples. ( )

129. USE OF A RECREATIONAL FACILITY, AND INSTRUCTIONAL FEES~~, AND PARI-MUTUEL BETTING (RULE 129)~~.
Section 63-3612(f), Idaho Code

01. ~~Use of a~~ Recreational Facility. Charges or fees to procure the use of a facility, facilities, or building for the purpose of recreation or physical conditioning are taxable. A recreational facility is any place where recreation occurs including outdoor locations. ~~(3-31-22)~~( )

02. Dues. Dues paid to fraternal organizations such as the Elks, Eagles, Masonic Order, or similar organizations are not normally paid primarily for the use of facilities for recreation~~;~~. ~~i~~In such cases, recreational use of facilities will be incidental. However, any separate, identifiable fees charged by such fraternal organizations, ~~in~~

~~excess of~~ more than ordinary membership dues and fees, specifically for the use of recreational or physical conditioning facilities will be taxable including~~, but not limited to,~~ bowling fees, green fees, swimming fees, court fees, or equipment usage fees. ~~(3-31-22)~~( )

03. Instructional Fees. ~~Separately stated~~ When a class or lesson led by an instructor is offered in a recreational facility, instruction fees, such as for ~~jazzercise~~ martial arts, aerobics, dance, and swimming are not taxable. ~~(3-31-22)~~( )

~~**04. Pari-Mutuel Betting**. Pari-mutuel betting is not taxable.~~ ~~(3-31-22)~~

0~~5~~4. Use of Tangible Personal Property. Charges imposed ~~on persons~~ to us~~ing~~e recreational facilities such as gyms, swimming pools, skating rinks, golf courses, and bowling alleys~~, etc.,~~ often combine the privilege of entering the place with the right to use tangible personal property. When a uniform price is imposed upon all persons without regard to the intention of the individual to use tangible personal property or the other facilities included, the total charge will be presumed a charge for the use of a recreational facility and taxable. ~~(3-31-22)~~( )

130. PROMOTER SPONSORED EVENTS ~~(RULE 130)~~.
Sections 63-3620, 63-3620C, 63-3622YY, Idaho Code

01. Promoter's Responsibility. Promoters of ~~promoter~~ sponsored events~~, as defined in Section 63-3620C, Idaho Code,~~ are to ~~obtain a completed copy of the sales tax declaration section of Form ST-124, Idaho Sales Tax Declaration, from~~ register for their event online and provide each participant ~~at~~ with an event identification number to register for that event. ~~The promoter obtains pre-numbered Forms ST-124 from the Commission. The promoter is to forward a copy of the completed Form ST-124 to the Commission within ten (10) days following the beginning of the event. The promoter may also maintain a copy in its file.~~ The Tax Commission may request ~~from the promoter~~ a ~~master~~ list of participants ~~to be submitted in addition to the completed Forms ST-124~~ of the event.
~~(3-31-22)~~( )

02. ~~Use of the Form ST-124~~. ~~The promoter will provide each participant with the Form ST-124. Upon completing the sales tax declaration section of the form, the participant returns it to the promoter. In this section, the participant states that the participant either has a valid seller's permit, will use Form ST-124 as a temporary seller's permit for the event, or will not make any taxable sales at that event. If a participant uses Form ST-124 as a temporary seller's permit, the promoter will be considered the issuer of that permit as an agent of the Commission. The Form ST-124's sales tax declaration includes the following:~~ **Event Participants**. When participants register for the event, they will state that they either have a properly executed seller's permit, will need a temporary permit, are an Idaho small seller, or won't be making any taxable sales at the event. ~~(3-31-22)~~( )

~~**a.** The name of the promoter sponsoring the event, the name of the event, the event location, and the dates of the event.~~ ~~(3-31-22)~~

~~**b.** The name, address, and phone number of participant in the event.~~ ~~(3-31-22)~~

~~**c.** Either:~~ ~~(3-31-22)~~

~~i. The participant's valid seller's permit number; or~~ ~~(3-31-22)~~

~~ii. A statement from the participant that the Form ST-124 will be used as a temporary seller's permit for the event; or~~ ~~(3-31-22)~~

~~iii. A statement from the participant that no taxable retail sales will be made at this event.~~ ~~(3-31-22)~~

~~**d.** Other information the Commission may deem necessary.~~ ~~(3-31-22)~~

03. Participant's Failure to ~~Provide a Form ST-124 to the Promoter~~ Register for the Event. For every participant that ~~does not provide the completed sales tax declaration portion of Form ST-124 to the promoter~~ doesn't register for the event, the promoter is to provide ~~to the Commission~~ a list of those participants to the Tax Commission within ten (10) days following the beginning of the event. For each participant listed, the promoter will

include the following: the business name, address, phone number, and names of all individuals who own and operate the business. ~~(3-31-22)~~( )

~~**04. Temporary Seller's Permit Issued by Promoter**. Before a promoter may claim the income tax credit provided for by Section 63-3620C, Idaho Code, the promoter will forward a completed Form ST-124 to the Commission for each Form ST-124 used as a temporary seller's permit. (3-31-22)~~

~~**05. Promoter's Sales Tax Liability**. The promoter will not be held responsible for collecting sales tax on sales made by participants other than sales made by the promoter himself. (3-31-22)~~

131. -- 132. (RESERVED)

133. RADIO AND TELEVISION BROADCAST EQUIPMENT ~~(RULE 133)~~.
Sections ~~25-1722,~~ 63-3612, 63-3613, 63-3622, Idaho Code
~~Sales and purchases of equipment primarily and directly used in the production and broadcasting of radio and television programs are exempt pursuant to Section 63-3622S, Idaho Code. To qualify for the exemption, a business is required to be primarily devoted to both producing and broadcasting either radio or television programs.~~
Businesses that provide television or radio programs only to paid subscribers are not broadcasters and cannot claim this exemption. ~~(3-31-22)~~( )

~~**134. SALES OF LIVESTOCK (RULE 134).**~~

~~**01. Exempt Sales of Livestock**. Certain sales and purchases of livestock are exempt from sales and use tax. To qualify for the exemption, the livestock are to be sold at a livestock market chartered by the Idaho Department of Agriculture, or an organization expressly exempted from chartering requirements by Section 25-1722, Idaho Code. Those groups expressly exempted from chartering requirements are: (3-31-22)~~

~~**a.** Any place or operation where future farmers or 4-H groups, or private fairs conduct sales of livestock. (3-31-22)~~

~~**b.** Any place or operation conducted for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder, or feeder who is discontinuing said business and no other livestock is sold or offered for sale. (3-31-22)~~

~~**c.** Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock when such breeders assume all responsibility of such sale and the title of livestock sold. This applies to all purebred livestock association sales. (3-31-22)~~

~~**d.** All sales of livestock by any generally recognized statewide association or associations composed of persons engaged in the production in Idaho of cattle, calves, sheep, mules, horses, swine, or goats. (3-31-22)~~

~~**e.** Sales of livestock by any nonprofit cooperative association, corporation sole or religious, fraternal or benevolent corporation, provided such association or corporation complies with regulations of the director in connection with such sale and such sales are not held in the regular course of business of such corporation or association. (3-31-22)~~

~~**f.** Any Idaho auction market operated by an Idaho licensed auctioneer selling not more than twenty (20) animals a week or more than eighty (80) animals a month, provided such an auction market is bonded under the provisions of the Federal Packers and Stockyards Act, of 1921, as amended. (3-31-22)~~

~~**02. Sales of Other Animals Excluded**. This exemption is limited to sales of cattle, calves, sheep, mules, horses, swine, or goats. Sales of other animals do not qualify for the exemption regardless of who the seller is and where the sale takes place. (3-31-22)~~

~~134 –~~ **135. ~~SNOWGROOMING AND SNOWMAKING EQUIPMENT (RULE 135).~~ ~~(RESERVED)~~**
~~Sections 63-3612, 63-3613, 63-3622, 63-3622Y, 63-3641, Idaho Code~~

~~**01. Exemption for Snow Equipment**. Section 63-3622Y, Idaho Code, exempts the sale, storage, use or other consumption of tangible personal property that will become a component of an aerial passenger tramway and snowgrooming and snowmaking equipment purchased and used by the owner or operator of a downhill ski area. This exemption also extends to sales and purchases of component parts used to build or repair snowgrooming and snowmaking equipment. (3-31-22)~~

~~**02. Consumable Supplies Not Exempt**. This exemption only applies to sales and purchases of equipment that will become a component part of snowmaking or snowgrooming equipment. It does not apply to sales and purchases of fuel, fluids, or other consumable supplies. (3-31-22)~~

136. REBATES PAID TO CERTAIN REAL ESTATE DEVELOPERS ~~(RULE 136)~~.
Section 63-4502, Idaho Code

~~**01. Rebate of Sales Tax**. Section 63-3641, Idaho Code, provides for a rebate of sales taxes to be paid to real estate developers who build a qualifying retail complex at a cost of four million dollars ($4,000,000) or more and who expend more than six million dollars ($6,000,000) for the installation of a highway interchange or for improvements on a highway. For the purposes of this rule, the term "qualifying shopping center" is a qualifying retail complex as specified by Section 63-3641, Idaho Code. (3-31-22)~~

0~~2~~1. **Qualifying Shopping Center Location**. ~~Qualified retailers located in a qualifying shopping center apply for a separate sellers' permit and report sales separately for that location. For instance, if a~~A retailer ~~has~~ with multiple stores in Idaho ~~it~~ needs to file~~s~~ a separate return for any store located in a qualifying shopping center. A retailer who ceases operation in a qualifying shopping center notifies the Tax Commission and cancels the sellers' permit for that location. ~~(3-31-22)~~( )

~~**03. Confidential Information**. Information about an individual store's sales or aggregate sales for stores located in a qualifying shopping center is confidential and may not be released to the public. (3-31-22)~~

042. **Developer Responsibilities**. The developer of a qualifying shopping center provides the names and taxpayer identification numbers of the stores located in the shopping center to the Tax Commission. The developer also notifies the Tax Commission whenever a new retailer begins operation or when a retailer ceases operations in a qualifying shopping center. ~~(3-31-22)~~( )

~~**05. Certifying Expenditures Prior to Rebate Payment**. No rebate will be paid unless the Idaho Department of Transportation or an appropriate political subdivision of the state of Idaho has certified as to the amounts expended and that the expenditures were made for the purpose of constructing approved transportation improvements. (3-31-22)~~

~~**06. Disposition of Revenue from a Qualifying Shopping Center**. The Commission will deposit sixty percent (60%) of the sales and use tax reported by qualifying retailers in the demonstration pilot project fund after a developer has: (3-31-22)~~

~~**a.** Identified the location and boundaries of the retail complex; (3-31-22)~~

~~**b.** Identified the qualified retailers making retail sales within the complex; and (3-31-22)~~

~~**c.** Verified that it has met the expenditure requirements of Subsection 136.01 of this rule. (3-31-22)~~

~~**137. IMPOSITION OF THE PREPAID WIRELESS E911 FEE (RULE 137).**~~
~~Sections 31-4801 - 31-4821, Idaho Code~~
~~A prepaid wireless E911 fee is imposed on the sale of prepaid wireless telecommunications service at two and one-half percent (2.5%) of the sales price. The prepaid wireless E911 fee is not imposed on a sale of any device, such as a cell phone, that utilizes the prepaid wireless telecommunications service. However, the sale of the device will be subject to the fee if all the following apply: (3-31-22)~~

~~**01. Separately State the Cost**. The seller does not separately state the cost of the prepaid wireless telecommunications service from the rest of the transaction, (3-31-22)~~

~~**02. Service Sold Exceeds**. The amount of the prepaid wireless telecommunications service sold exceeds ten (10) minutes or five dollars ($5.00), and (3-31-22)~~

~~**03. Portion of the Sale**. The seller cannot show from its records the portion of the sale that should properly be applied to the sale of the prepaid wireless telecommunications service. (3-31-22)~~

13~~8~~7. -- 999. (RESERVED)

IDAPA 35 – STATE TAX COMMISSION

35.01.06 – HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0106-2501 (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: A public hearing concerning this rulemaking will be held as follows:

Thursday, September 18, 2025
10:00 a.m. (MT)

In Person:
Idaho State Tax Commission
11321 W Chinden Blvd., Bldg. 2
Boise, ID 83714
(Meeting to be held in the Coral Conference Room)

Join from the meeting link:
https://idahogov.webex.com/idahogov/k2/j.php?MTID=t06e169c2ac6dd869866b3dbd94da5c63
meeting number (access code): 2868 500 2239
meeting password: MSrp7eSeP59

Join by phone:
+1-415-655-0001 US Toll
Meeting number: 2868 500 2239

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 State Tax Commission will perform a critical and comprehensive review of the statutes and existing rules chapter. We will rewrite this chapter under the premise of zero-based rulemaking, as per Executive Order 2020-01: Zero Based Rule Regulation.

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 as a result of 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 May 7, 2025, Idaho Administrative Bulletin, Vol. 25-5, pages 72-73.

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 Philip Johnson at philip.johnson@tax.idaho.gov or (208) 334-7505.

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 16, 2025.

DATED this 22nd day of August, 2025.

Kimberlee Stratton, Rules Coordinator
Idaho State Tax Commission
11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36 Boise ID 83722-0036
kimberlee.stratton@tax.idaho.gov
(208) 334-7544

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0106-2501
(ZBR Chapter Rewrite.)

35.01.06 – HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY ~~(RULE 000)~~.
~~In accordance with~~ Sections 63-105, 67-4718, and 67-4917B, Idaho Code~~, the Commission has promulgated rules implementing the provisions of the Idaho Code relating to hotel/motel room charges. These rules do not apply to sales taxes imposed by resort cities, unless such taxes are administered by the Commission~~. ~~(3-31-22)~~( )

001. ~~TITLE AND~~ SCOPE ~~(RULE 001)~~.
~~Sections 63-3612, 67-4711, 67-4718, 67-4902, 67-4917B & C, 63-1801 through 63-1804, Idaho Code~~

~~01.~~ ~~Title~~. ~~These rules will be titled IDAPA 35.01.06, "Hotel/Motel Room and Campground Sales Tax Administrative Rules."~~ ~~(3-31-22)~~

~~02.~~ ~~Scope.~~ These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority for taxes imposed on providing accommodations.~~ The imposition of a tax for providing a place to sleep or occupy.~~ ~~(3-31-22)~~( )

~~002. ADMINISTRATIVE APPEALS (RULE 002).~~

~~01.~~ ~~Administrative Relief~~. ~~This chapter allows administrative relief as provided in Sections 63-3626, 63-3631, 63-3633, 63-3634, and 63-3049, Idaho Code.~~ ~~(3-31-22)~~

~~02.~~ ~~Cross Reference~~. ~~(3-31-22)~~

~~a.~~ ~~See IDAPA 35.01.02.121, "Idaho Sales and Use Tax Administrative Rules."~~ ~~(3-31-22)~~

~~b.~~ ~~See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules."~~ ~~(3-31-22)~~

00~~3~~2. LODGING OPERATORS AND SHORT-TERM RENTAL MARKETPLACES ~~(RULE 003)~~.
Sections, 63-1801 through 63-1804, 63-3612, 63-3620, 67-4711, 67-4718, 67-4917B, Idaho Code

~~**01. In General**. These rules apply to the Short-term Rental and Vacation Rental Act, Section 63-1801 through 63-1804, Idaho Code.~~ ~~(3-31-22)~~

0~~2~~1. **Applicable Taxes**. Any state or local government taxes imposed ~~according to Section 63-1804, Idaho Code,~~ will be collected, reported, paid, and administered according to these rules or as further explained by the Tax Commission's rules in IDAPA 35.01.02~~, "Idaho Sales and Use Tax Administrative Rules."~~ ~~(3-31-22)~~( )

0~~3~~2. **Registration**. Registration with the Tax Commission will be in the same manner ~~and in the same form~~ as ~~is required for~~ obtaining a seller's permit for state sales tax. ~~However, a short-term rental marketplace that has not facilitated a lodging transaction in Idaho has forty-five (45) days from the completion of their first lodging transaction in Idaho to register to collect room sales tax~~ Idaho requires businesses to register for certain tax permits using the Idaho Business Registration (IBR) process. These permits include seller's permits for sales and use taxes, travel and convention permits, and some auditorium district permits. ~~(3-31-22)~~( )

00~~4~~3. -- 009. (RESERVED)

010. DEFINITIONS ~~(RULE 010)~~.
Section 67-4711, Idaho Code

01. Campground. Campground means a person, partnership, trustee, receiver, or other association, regularly engaged in the business of renting, for a consideration, or which holds itself out as being in the business of renting, for a consideration, any area, space or place for camping, parking campers, travel trailers, motor homes or tents when such areas, spaces or places are to be rented for the purpose of providing an individual or individuals a place to sleep. (3-31-22)

02. Hotel or Motel. The words hotel or motel means any person, partnership, corporation, trustee, receiver, or other association, regularly engaged in the business of furnishing rooms for use or occupancy, whether personal or commercial, in return for ~~a~~ consideration or which holds itself out as being regularly engaged in such business. ~~(3-31-22)~~

~~**a.**~~ Providing rooms for consideration includes rooms rented for personal occupancy and rooms rented for meetings, conventions, or other commercial purposes. ~~(3-31-22)~~( )

~~**b. The following rentals are taxable, unless exempted under the provisions of Rule 016 of these rules. (3-31-22)**~~

~~i. Condominiums or townhouses (3-31-22)~~

~~ii. Rooms that a public or private educational institution rents (3-31-22)~~

~~iii. Rooms that hospitals, nursing homes, or similar institutions rent to nonpatients. (3-31-22)~~

011. ACCOMMODATIONS TAX ~~(RULE 011)~~.
Sections 50-1046, 63-3612, 67-4711, 67-4718, 67-4902, 67-4917B, 67-4917C, 63-1801 through 63-1804, Idaho Code

01. In General. These rules apply to: (3-31-22)

a. Room Sales Tax. The room sales tax includes Travel and Convention Tax and Auditorium or Community Center District Tax when those taxes are administered by the Tax Commission. In these rules, they are referred to collectively as the room sales tax: (3-31-22)

i. Travel and Convention Tax. The tax imposed by Section 67-4718, Idaho Code, is a ~~gross receipts~~

~~type~~ sales tax on ~~the receipts derived from~~ providing a place to sleep to an individual by operators of hotels, motels, and campgrounds as defined in these rules. ~~(3-31-22)~~( )

ii. Auditorium or Community Center District Tax. The tax imposed by Section 67-4917B, Idaho Code, is a retail sales tax levied upon the user or occupant of a hotel/motel room collected by the hotel or motel from the occupant or user and remitted to the Tax Commission. ~~(3-31-22)~~( )

b. Sales Tax for Accommodations. These rules explain the application of the state sales tax on accommodations. See also IDAPA 35.01.02.028~~, "Idaho Sales and Use Tax Administrative Rules."~~ ~~(3-31-22)~~( )

~~**012. DISTRICT BOUNDARIES (RULE 012).**~~
~~Maps showing the district boundaries for each of the auditorium or community center districts administered by the Commission can be found on our website and are available upon request.~~ ~~(3-31-22)~~

~~**013. REGISTRATION (RULE 013).**~~
~~Registration with the Commission will be in the same manner and in the same form as is required for obtaining a seller's permit for state sales tax.~~ ~~(3-31-22)~~

0142. ROOM OR CAMPGROUND CHARGE DEFINED ~~(RULE 014)~~.
Section 63-3619, Idaho Code

01. Room or Campground Charge Definition. ~~As used in these rules, t~~The charge for providing rooms or campground spaces is to the total paid, whether in money or otherwise, for the rental of the room or space. This includes all services agreed to be rendered unless exempted in Idaho Code, including cleaning fees, booking fees, and amounts charged for temporary use of tangible personal property used in conjunction with the room such as a charge for an extra bed. In the case of campgrounds any charges for water, electrical or sewer hookups are part of the charge for the use of the space and are included in the amount subject to tax. ~~(3-31-22)~~( )

02. Not Included. Separately stated charges that are not part of the rental of the room or campground space. ~~Examples~~ include separately stated charges for internet access, telephone, food, beverage or laundry charges. ~~(3-31-22)~~( )

0153. SEPARATELY ~~STATEMENT OF~~ STATED TAX ~~(RULE 015)~~.
Section 63-3619, Idaho Code

01. Amount of Tax Charged. The total tax charged for lodging accommodations needs to be separately stated from all other charges on the customer's receipt and can appear on the receipt as either; ~~(3-31-22)~~( )

a. ~~Separate Statement.~~ A separate line item for each of the applicable taxes. ~~(3-31-22)~~( )

b. ~~Combined Statement.~~ A single line item that includes all applicable taxes. ~~(3-31-22)~~( )

~~**02. Fractional Parts of One Cent**. If the amount of tax computed in accordance with this rule is a fractional part of one cent ($.01), the amount will be rounded to the nearest full cent.~~ ~~(3-31-22)~~

0164. EXEMPTIONS ~~(RULE 016)~~.
Sections~~,~~ 63-3612(g), 63-3622A, 63-3624, 63-3622O, 67-4718, 67-4917B, 67-4917C, 63-1804, Idaho Code

01. Exemptions. ~~Except as otherwise provided in this rule, a~~ All charges for ~~room occupancy~~ accommodations which are exempt from Idaho sales tax are also exempt from the room sales tax. ~~(3-31-22)~~( )

02. Exempt Entities. Rooms or campground spaces furnished to ~~governmental~~ exempt entities, ~~educational institutions, or hospitals~~ as defined in Section 63-3622O, Idaho Code, are exempt from the taxes if and only if the charge for the ~~room or campground space occupancy~~ accommodation is billed directly to and paid directly by ~~the governmental entity, educational institution, or hospital~~ those entities. ~~(3-31-22)~~( )

~~a. "Governmental entity" includes the federal government and any of its instrumentalities, the state of Idaho and any of its agencies or any city, county or taxing district of the state of Idaho. Governmental entity does not include states other than Idaho or their political subdivisions. (3-31-22)~~

~~b. "Educational institution" means any nonprofit colleges, universities, primary, and secondary schools in which systematic instruction in the usual branches of learning is given. The exemption does not include educational institutions that operate for profit or schools primarily teaching special accomplishments, such as business or cosmetology. (3-31-22)~~

~~c. "Hospital" means a nonprofit institution licensed as a hospital by any state. This exemption does not include hospitals that operate for profit, nursing homes, or similar institutions. (3-31-22)~~

~~d~~a. "Billed directly to" means a contractual agreement between the facility operator and the ~~governmental~~ exempt entity~~, educational institution, or hospital~~ whereby the charge for the~~ room or campground space~~ accommodation is directed~~ to~~, and is the responsibility of, and paid by the~~ governmental agency or institution. "Billed directly to" also includes credit card charges billed to an account opened by an exempt agency, educational institution, or hospital~~. ~~(3-31-22)~~( )

~~e~~b. "Paid directly by" means a remittance tendered directly by the~~ governmental entity, educational institution, or hospital~~ exempt entity to the facility operator. It does not include~~ a~~ payment by the~~ governmental~~ exempt entity or institution to an employee or agent for reimbursement of expenses incurred during business travel. However, "paid directly by" does include payments made by an exempt entity to a financial institution for credit card charges made on a charge account in the name of the exempt entity with a credit card issued to the entity itself and not to any individual or employee. ~~(3-31-22)~~( )

~~f~~c. Credit cards issued to employees of governmental agencies~~ are NOT~~ aren't considered to be billed directly to and paid directly by the governmental entity when the employee is responsible for making payment to the credit card company. ~~(3-31-22)~~( )

03. Continuous Occupancy Exemptions. All~~ hotel/motel room sales and campground space rentals~~ accommodations are presumed to be short-term unless evidence can be provided documenting continuous occupancy. Continuous occupancy means maintaining residency under the terms of a lease or similar agreement for a continuous period of~~ time~~ thirty one (31) days or greater by the same individual or individuals. The continuous occupancy exemption does not apply when~~ a room or campground space~~ the accommodation is furnished to a business enterprise that rotates numerous employees as occupants of the room or space with no one (1) employee remaining continuously for the minimum number of days required to meet the continuous stay requirements. ~~(3-31-22)~~( )

~~a. Hotels and Motels. The room charges are exempt from the following taxes when continuous residency is maintained in a hotel or motel by the same individual or individuals for a period that exceeds thirty (30) days: (3-31-22)~~

~~i. Sales and Use Tax; (3-31-22)~~

~~ii. Travel and Convention Tax; and (3-31-22)~~

~~iii. Auditorium or Community Center District Tax if the hotel or motel is located within the boundaries of the auditorium or community center district. (3-31-22)~~

~~b. Campgrounds. The rental of a campground space is exempt from the following taxes when continuous residency is maintained by the same individual or individuals in a campground space for a period that exceeds thirty (30) days: (3-31-22)~~

~~i. Sales and Use Tax; (3-31-22)~~

~~ii. Travel and Convention Tax; and (3-31-22)~~

~~iii. Auditorium or Community Center District Tax does not apply to campground spaces. See~~

~~Subsection 016.05 of this rule.~~ ~~(3-31-22)~~

~~**e.** This can be documented by a lease or other documentation that shows the period the occupancy is maintained. A guest registration card verifiable by a billing document is acceptable documentation. See Rule 017 of these rules for documentation requirements.~~ ~~(3-31-22)~~

04. Rooms Rented for Purposes Other Than Sleeping. Travel and Convention tax applies only to rooms rented to an individual as a place to sleep. The tax does not apply to rooms rented for other purposes, such as for meetings. However, both the state sales tax and the Auditorium or Community Center District tax apply to rooms rented by a hotel or motel for purposes other than sleeping. Rooms supplied with beds are presumed to be rented for the purpose of sleeping unless the contrary is established by the operator. Rooms, other than dormitory rooms, rented by an educational institution for purposes other than sleeping, are not taxable as a sale of lodging; however, it is possible that renting such a room may be taxable as a fee for the privilege of using a facility for a recreational purpose. (3-31-22)

05. Campgrounds Exempted. The Auditorium ~~District~~ or Community Center District tax ~~does not~~ doesn't apply to campground charges. The state sales tax and the ~~t~~Travel and ~~c~~Convention tax apply to the charge for campground spaces. Sales of spaces in campgrounds owned or operated by the state of Idaho, its agencies or political subdivisions are subject to the state sales tax but not the ~~t~~Travel and ~~c~~Convention tax. ~~(3-31-22)~~( )

06. Foreign Diplomats. The United States Government grants immunity from state taxes to diplomats from certain foreign countries. The diplomat is issued a federal tax exemption card by the U.S. Department of State. The card bears a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. Vendors document an exempt charge to a foreign diplomat by: (3-31-22)

a. Retaining a photocopy of the front and back of the federal tax exemption card; or (3-31-22)

b. Recording for their permanent record the name of the bearer, the mission represented, the federal tax exemption number displayed on the card, the date of expiration, and the nature of the exemption granted to the diplomat. (3-31-22)

07. Direct Pay Authority. A taxpayer granted direct pay authority, as provided by IDAPA 35.01.02.112, ~~"Idaho Sales and Use Tax Administrative Rules," Rule 112~~ may not use this authority ~~for hotel/motel room or campground space charges. State sales tax, Travel and Convention tax, and, when applicable, Auditorium or Community Center District tax is charged by the hotel, motel, or campground and paid to the hotel, motel, or campground by the direct pay authority permittee~~ as an exemption from accommodation taxes. ~~(3-31-22)~~( )

017~~5~~. RECORDS ~~REQUIRED (RULE 017)~~ RETENTION.
Sections 63-3622, 63-3624, 67-4711, 67-4718, 67-4917C, Idaho Code
Any person that provides accommodations ~~subject to the accommodations tax~~ will maintain ~~the~~ records ~~required~~ described in IDAPA 35.01.02~~.~~ Section 111, and the records and exemption certificates required in IDAPA 35.01.06.016~~4~~ necessary to document exemptions from the accommodations tax. These records are to be maintained for a period of four (4) years and are subject to audit by the Tax Commission or, Auditorium ~~and~~ or Community Center Districts ~~organized under chapter 49, title 67, Idaho Code~~. ~~(3-31-22)~~( )

~~**018. RETURNS (RULE 018).**~~

~~**01. Filing Returns**. Each hotel, motel, campground, lodging operator, and short-term rental marketplace providing taxable accommodations files with the Commission on forms prescribed by the Commission returns showing the amount of tax required to be paid to the Commission and such other information as the Commission requires. The return, together with the remittance shown to be due thereon, is to be received by the Commission or postmarked on or before the twentieth (20th) day of the month following the period to which the return relates. All taxable sales made to the user or occupant are to reported on the return for the period during which such use or occupancy occurred without regard to whether the charge was a cash or credit transaction.~~ ~~(3-31-22)~~

019~~6~~. DEFICIENCIES, COLLECTIONS, AND ENFORCEMENT ~~(RULE 019)~~.
Sections 63-3629, 63-3634, Idaho Code

01. Remittance of Taxes. In the event that taxes required to be collected and remitted by a hotel, motel, campground, lodging operator, and short-term rental marketplace are not remitted to the Tax Commission together with a return in a timely manner or in the event that the Tax Commission finds any deficiency in the amount of tax reported to or remitted to the Tax Commission, the Tax Commission will issue a Notice of Deficiency Determination ~~pursuant to the provisions of Section 63-3629, Idaho Code~~. A hotel, motel, campground, lodging operator, and short-term rental marketplace to which such a Notice of Deficiency Determination has been issued may file a written protest requesting a redetermination of the deficiency pursuant to the provisions of IDAPA 35.02.01.320 - 328, "Tax Administration and Enforcement Administrative Rules." ~~(3-31-22)~~( )

02. Penalties. In the event that any deficiency in reporting or remitting taxes by a hotel, motel, campground, lodging operator, and short-term rental marketplace is due to negligence, failure to comply with this Tax Commission's rules, or fraud, or in the event that any hotel, motel, campground, lodging operator, and short-term rental marketplace required to file a return with the Tax Commission fails to do so, the penalties provided in the Idaho Income Tax Act as applicable to the Idaho Sales Tax Act applies to the room sales tax. See IDAPA 35.01.01~~, "Income Tax Administrative Rules," Rule 410~~. ~~(3-31-22)~~( )

~~**03. Cross Reference**. See Rule 003 of these rules, Administrative Appeals.~~ ~~(3-31-22)~~

~~**020. DISTRIBUTION (RULE 020).**~~
~~Sections 67-4710 through 67-4718, 67-4917C, Idaho Code~~

~~**01. Travel and Convention Tax**. Amounts collected by the Commission for the state Travel and Convention tax will be paid distributed according to Section 67-4718, Idaho Code.~~ ~~(3-31-22)~~

~~**02. Auditorium or Community Center District Tax**. The amounts collected by the Commission for any Auditorium or Community Center District will be distributed by the Commission to the Auditorium or Community Center District according to Section 67-4917C, Idaho Code. Funds to be distributed according to Section 67-4917C(2)(c), Idaho Code will be distributed no later than one month following receipt by the Commission of the revenues from such district.~~ ~~(3-31-22)~~

0~~21~~17. SALES TAX RULES APPLY UNLESS OTHERWISE PROVIDED (RULE 021).
Sections 67-4710 - 67-4719, 67-4917A, 67-4917B, 67-4917C, Idaho Code

~~The rules promulgated by the~~Tax Commission rules in IDAPA 35.01.02, relating to the enforcement and collection of the Idaho sales tax, ~~applies~~ apply to the room sales tax unless ~~the~~ provisions ~~of Sections 67-4710 through 67-4719,~~ in Idaho Code~~, inclusive or Sections 67-4917A, 67-4917B or 67-4917C, Idaho Code, or these rules are expressly contrary to the Sales Tax Rules~~ conflict. ~~(3-31-22)~~( )

0~~22~~18. -- 999. (RESERVED)

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION

38.04.04 – RULES GOVERNING CAPITOL MALL PARKING

DOCKET NO. 38-0404-2501 (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(s) 67-5708, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 14, 2025.

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 Department is proposing a rule change on this chapter to update and revise Capitol Mall Parking. Topics include, but are not limited to, the following: Capitol Mall Parking; definitions; parking lot locations; type of parking; parking space allocation; parking permits; parking permit fees; parking lot violations; enforcement; suspension or revocation of parking privileges; surrender of parking permits; loading zone parking spaces; and waiver of rules. There are no changes to fees and there is no fiscal impact.

FEE SUMMARY: This rulemaking does not impose or increase a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules.

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 resulting from this rulemaking: Not applicable.

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 May 7, 2025, Idaho Administrative Bulletin, Vol. 25-5, pages 74-75. Two scheduled negotiated meetings were held with minimal stakeholder interest, thus, the department focused on the refinement and overall reduction of 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 concerning the proposed rule, contact Kim Rau at 208-332-1824.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2025.

DATED this 12th day of August, 2025.

Steve Walker, Deputy Director
Department of Administration
650 W State St. Rm 100
PO Box 83720 Boise, Idaho 83720-0035
208-332-1824
DirectorsOffice@adm.idaho.gov / www.adm.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 38-0404-2501
(ZBR Chapter Rewrite.)

38.04.04 – RULES GOVERNING CAPITOL MALL PARKING

000. LEGAL AUTHORITY.
~~The following rules are promulgated pursuant to the authority of~~ Section 67-5708, Idaho Code~~, and Senate Concurrent Resolution No. 135 (1976)~~. ~~(3-25-22)~~( )

001. SCOPE.
These rules implement, Section 67-5709, Idaho Code, governing parking in the Capitol Mall. ~~(3-25-22)~~( )

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Capitol Mall**. ~~The Capitol Mall consists of the following buildings: State Capitol (700 W. Jefferson Street), Joe R. Williams (700 W. State Street), Len B. Jordan (650 W. State Street), State parking garage #1 (550 W. State Street), Pete T. Cenarrusa (450 W. State Street), Division of Public Works (502 N. 4th Street), Alexander House (304 W. State Street), State Library (325 W. State Street), 954 Jefferson (954 W. Jefferson Street), Capitol Annex (514 W. Jefferson Street), Blind Commission (341 W. Washington Street), Borah Building (304 N. 8th Street), State Parking Garage #2 (608 W. Washington Street); and Idaho Supreme Court (451 W. State Street)~~Pursuant to Section 67-5709(2)(b), Idaho Code. ~~(3-25-22)~~( )

02. **Capitol Mall Employee**. A state employee whose assigned work area is in the Capitol Mall, and who receives a state of Idaho-issued paycheck from a tenant of the Capitol Mall. (3-25-22)

~~**03. Carpool.** A vehicle carrying two (2) or more Capitol Mall employees who work at the Capitol Mall at least four (4) work days per week.~~ ~~(3-25-22)~~

0~~4~~3. **Employee with a Disability**. An employee with a disability as defined in Section 49-117(7)(b), Idaho Code. (3-25-22)

0~~5~~4. **Executive Branch Departments**. ~~Pursuant to~~The departments identified in Section 67-2402, Idaho Code, excluding the Department of Self-Governing Agencies. ~~(3-25-22)~~ ( )

0~~6~~5. **~~Facilities~~ Security Services**. ~~Bureau of Facilities Services,~~ Division of Public Works, Department of Administration. ~~(3-25-22)~~( )

0~~7~~6. **General Parking**. A parking space used for all Capitol Mall employees registered for general parking. (3-25-22)

0~~8~~7. **Legislative Personnel**. An employee hired by the Legislative branch that receives a state of Idaho-issued paycheck during the Legislative session or is a year round employee of the Legislative branch. (3-25-22)

0~~9~~8. **Legislator**. A member of the Idaho Senate or the Idaho House of Representatives for the state of Idaho. (3-25-22)

~~10~~09. **Reserved Parking**. A parking space assigned to a specific person, vehicle or agency. (3-25-22)

1~~1~~0. **State Elected Officials**. The governor, lieutenant governor, secretary of state, attorney general,

state controller, state treasurer and superintendent of public instruction, for the state of Idaho. (3-25-22)

12~~1~~1. **Temporary Contract Employee**. An employee of a temporary employment service company who is working temporarily for a tenant of the Capitol Mall, and who does not receive a pay check issued by the state of Idaho. (3-25-22)

13~~2~~2. **Visitor**. Any person visiting the Capitol Mall to carry out state business or attend a state-sponsored event. (3-25-22)

011. -- 019. (RESERVED)

020. PARKING LOT LOCATIONS.
~~All Capitol Mall parking lots will be identified by signage. Capitol Mall Parking manages the state-owned parking lots at the following locations: 550 W. State Street Parking Garage, State Parking Garage #1; 608 W. Washington Street, State Parking Garage #2; 10th and Jefferson Streets, 8th Street between State and Jefferson Streets, and 3rd and Washington Streets. Capitol Mall Parking also manages parking spaces in and around the following Capitol Mall buildings: Capitol Annex, Len B. Jordan, Pete T. Cenarrusa, Division of Public Works, Borah Building and Idaho State Library~~Capitol Mall Parking manages the parking for the Capitol Mall and spaces in and around the Capitol Mall identified by signage. ~~(3-25-22)~~( )

021. TYPES OF AVAILABLE PARKING.
Designated parking spaces are available for reserved parking, state elected officials and directors of executive branch departments, Legislators, ~~carpool,~~ disabled employees and state agency vehicles. ~~All other parking spaces, unless designated as public or visitor parking, are considered general parking.~~ ~~(3-25-22)~~( )

022. PARKING SPACE ALLOCATION.

01. Reserved Parking Spaces. (3-25-22)

a. Reserved parking spaces are available for state elected officials and directors of executive branch departments as defined in Subsections 010.05 and 010.11 of these rules. Capitol Mall Parking (CMP) will assign a reserved space to each state elected official and director of executive branch departments upon request. ~~(3-25-22)~~( )

b. Reserved parking spaces will be made available to the Senate pro-tem, and the speaker of the House of Representatives. ~~Capitol Mall Parking will assign a reserved space to each individual.~~ ~~(3-25-22)~~( )

c. All other Capitol Mall employees may apply for a reserved parking space. General reserved parking spaces are assigned to Capitol Mall employees on a first-come, first-served basis when designated reserved parking spaces become available. (3-25-22)

d. Reserved parking spaces for state elected officials, directors of executive branch departments and Capitol Mall employees are located in the following parking lots only: the first floor of State Parking Garage #1; the first and second floors of State Parking Garage #2, the Pete T. Cenarrusa ~~B~~building ~~parking lot~~ the Capitol Annex, the Borah building parking lot, and the 8th Street parking lot between State and Jefferson Streets. ~~(3-25-22)~~( )

e. Parking lot between State and Jefferson Streets. ( )

e~~f~~f. ~~Capitol Mall Parking~~CMP will determine the location of all reserved parking spaces. ~~(3-25-22)~~( )

f~~g~~g. Reserved parking spaces for state elected officials, directors of executive branch departments and Capitol Mall employees will not exceed twenty-five percent (25%) of parking spaces available within the Capitol Mall. (3-25-22)

g~~h~~h. Capitol Mall employees may not sell, trade or barter the right to use their assigned reserved parking space. ~~Capitol Mall Parking~~ CMP retains the right to assign, reassign, suspend or revoke Capitol Mall employees'

reserved parking spaces at any time. ~~(3-25-22)~~( )

~~02~~i. ~~Legislators' Parking Spaces.~~ During Legislative sessions and special sessions, ~~Capitol Mall Parking~~ CMP will make available up to one hundred three (103) reserved Legislator parking spaces to Legislators. ~~(3-25-22)~~( )

~~a~~j. Each Legislator will be assigned a reserved Legislator parking space. A Legislator who elects to park in the Capitol Mall is required to pay the fee for the reserved parking permit. (3-25-22)

~~b~~k. During the Legislative session, Legislator reserved parking spaces will be on the third floor of State Parking Garage #1, 8th Street parking lot, and the Capitol Annex parking lot and will be clearly marked. ~~The Legislator~~ Their reserved parking permit is only valid in the assigned reserved parking space; the permit is not valid in any other CMP general parking space during the Legislative session. When the Legislature is not in session, ~~all Legislator parking spaces will be redesignated as general parking spaces~~ their permit will be designated as general parking spaces. ~~(3-25-22)~~( )

~~c~~l. When the Legislature is not in session, Legislators or Legislative personnel who hold a valid ~~Capitol Mall parking~~ CMP permit, may park in any general parking space. ~~(3-25-22)~~( )

0~~3~~2. **Disabled Employee Parking Spaces**. ~~Capitol Mall Parking~~ CMP will make available reserved disabled employee parking spaces for employees who have a ~~proven~~ disability. ~~(3-25-22)~~( )

a. A temporarily or permanently disabled employee who has obtained an Americans with Disabilities Act (ADA) placard issued by the Idaho Transportation Department (ITD) may request a reserved disabled employee parking space as close as possible to the employee's work location. ~~(3-25-22)~~( )

b. A disabled employee requesting a reserved disabled employee parking space must provide either a copy of his ~~Americans with Disabilities Act (~~ ADA~~)~~ placard issued by the ~~Idaho Transportation Department~~ ITD or a copy of the application to the ~~Idaho Department of Transportation~~ ITD for an ~~Americans with Disabilities Act (~~ ADA~~)~~ placard. ~~(3-25-22)~~( )

c. A temporary reserved disabled employee parking space will be provided to any eligible employee who has applied for an ~~Americans with Disabilities Act (~~ ADA~~)~~ placard with the ~~Idaho Department of Transportation~~ ITD but has not yet received the placard. A temporary reserved disabled parking space will be made available for five (5) working days only per disabled employee. ~~(3-25-22)~~( )

d. Reserved disabled employee parking spaces will be marked with signage. (3-25-22)

e. A permit for a reserved disabled employee parking space will be the same fee as a permit for a general parking space. (3-25-22)

~~04. Carpool Parking Spaces. Capitol Mall Parking will make available an indeterminate number of carpool parking spaces, which will be clearly marked, to employees who carpool at least four (4) work days per week. (3-25-22)~~

~~a. Capitol Mall employees who carpool may request a carpool parking permit from Capitol Mall Parking to use a designated carpool space. (3-25-22)~~

~~b. Carpool parking spaces will be available on a first-come, first-served basis for vehicles carrying two (2) or more Capitol Mall employees. All carpooling employees must be employees of the Capitol Mall with at least one (1) carpooling employee having a general parking space permit. (3-25-22)~~

~~c. A permit for a carpool parking space will be the same fee as a permit for a general parking space. (3-25-22)~~

~~d. All unoccupied reserved carpool parking spaces will be redesignated as general parking spaces after 9 a.m. work days. (3-25-22)~~

~~e. It is a parking violation to park in a reserved carpool parking space when the vehicle is carrying less than two (2) Capitol Mall employees before 9 a.m.~~ (3-25-22)

0~~5~~3. **State-Owned Vehicles Parking Spaces**. ~~Capitol Mall Parking~~ CMP will make available designated state-owned vehicle parking spaces. (3-25-22)(____)

a. ~~Capitol Mall Parking~~CMP will make available an indeterminate number of designated state-owned vehicle parking spaces to ~~department~~ agency tenants of the Capitol Mall. (3-25-22)(____)

b. Designated state-owned vehicle parking spaces will be ~~on the fifth level of the State Parking Garage #1, and will be clearly marked "State Vehicle Only."~~in the Capitol Mall lots or garages, and will be clearly marked "State Vehicle Only." (3-25-22)(____)

c. A Capitol Mall employee may park his personal vehicle in a designated state-owned vehicle parking space when removing a state vehicle for state purposes. The Capitol Mall employee's personal vehicle must display the reserved state-owned vehicle parking space permit. (3-25-22)

d. A visiting agency employee conducting official business at the Capitol Mall may park a state vehicle in an unoccupied designated state-owned vehicle parking space or in any Capitol Mall visitor parking space. (3-25-22)

~~06. **Motorcycle Parking Spaces**. Capitol Mall Parking will make available designated motorcycle parking spaces.~~ (3-25-22)

~~a. Capitol Mall employees may request a special motorcycle parking permit for motorcycles, at no additional cost, to park in the designated motorcycle parking areas.~~ (3-25-22)

~~b. In order to receive a motorcycle permit, the Capitol Mall employee must possess a valid general or reserved parking permit.~~ (3-25-22)

0~~7~~4. **General Parking Spaces**. All other undesignated parking is considered general parking. (3-25-22)

a. All Capitol Mall employees whose parking fees are deducted from their paychecks by the State Controller's Office may request a general parking permit from ~~Capitol Mall Parking~~ CMP. (3-25-22)(____)

b. General parking spaces are available on a first-come, first-served basis, and possession of a valid general parking permit does not guarantee the Capitol Mall employee a general parking space. (3-25-22)

0~~8~~5. **Visitor Parking Spaces**. ~~Capitol Mall Parking~~ CMP will make available a limited number of parking spaces for visitors and the public visiting the Capitol Mall. (3-25-22)(____)

a. Non-metered three (3) hour visitor parking spaces will be available at the parking lot at the Capitol Annex at 514 W. Jefferson Street and on the south side of the parking lot at the State Library Building at 325 W. State Street, and will be clearly marked. (3-25-22)

b. State-owned vehicles that do not belong to the ~~departments'~~ agency tenants of the Capitol Mall, and non-Capitol Mall employees visiting the Capitol Mall on business, may park in visitor parking spaces. (3-25-22)(____)

c. Capitol Mall employees may not park in visitor parking spaces between 6 a.m. and 6 p.m., Monday through Friday, excluding legal holidays with the exception of Human Rights Day and Presidents' Day. (3-25-22)

d. The maximum period of use of visitor parking spaces in the Capitol Mall is three (3) hours per day per vehicle. A change from one visitor parking space to another visitor parking space does not increase the maximum period of use for each vehicle beyond three (3) hours per day. (3-25-22)

023. -- 029. (RESERVED)

030. PARKING PERMITS.
~~Capitol Mall Parking~~CMP will issue applicable parking permits to all eligible persons who apply for a permit. ~~(3-25-22)~~( )

01. Parking Permits for Reserved, Legislator, Disabled Employee, ~~Carpool,~~ State-Owned Vehicles and General Parking. ~~(3-25-22)~~( )

a. ~~Capitol Mall Parking~~CMP will reissue parking permits once a year. Outdated parking permits must be returned to ~~Capitol Mall Parking~~ CMP. ~~(3-25-22)~~( )

b. ~~Capitol Mall Parking~~CMP will issue the applicable parking permit to each ~~Capitol Mall~~ state elected official, director of an executive branch department, Legislator or employee~~, with the exception of the carpool parking permit and the special motorcycle parking permit~~. ~~(3-25-22)~~( )

c. ~~Capitol Mall Parking~~CMP will issue only one (1) parking permit per employee. ~~Capitol Mall Parking will not provide duplicate general parking permits. State elected officials, directors of executive branch departments, and Capitol Mall employees with reserved parking spaces may request a duplicate reserved parking permit for a one-time fee equal to the general permit monthly fee.~~ ~~(3-25-22)~~( )

d. All individuals and ~~department~~ agency tenants are responsible for displaying the parking permit in the front windshield or other prominent location of the parked vehicle at all times. ~~(3-25-22)~~( )

~~**e.** In the event that a parking permit is stolen, lost or destroyed, the official, Legislator or employee must sign a statement attesting that the parking permit was lost, stolen or destroyed and pay a replacement fee before Capitol Mall Parking will issue a new permit. The replacement fee is equal to the general permit monthly fee.~~
~~(3-25-22)~~

02. Temporary Monthly Parking Permits. (3-25-22)

a. An individual performing work or providing services to ~~a department~~ an agency tenant as a Temporary Contract Employee in the Capitol Mall, but who does not receive a state of Idaho-issued paycheck, may purchase a general monthly parking permit at the same cost as a general parking permit from ~~Capitol Mall Parking~~ CMP. ~~(3-25-22)~~( )

b. Upon request and receipt of the general parking permit fee, ~~Capitol Mall Parking~~ CMP may issue a monthly general parking permit to the following: ~~(3-25-22)~~( )

i. Individuals who do not receive a paycheck issued by the state of Idaho but are performing work or providing services to ~~a department~~ an agency tenant in the Capitol Mall. This includes, but is not limited to, employees of the Idaho Central Credit Union, employees of vendors of the Commission for the Blind and Visually Impaired, and Capitol Mall tenant departments' temporary contract employees. ~~(3-25-22)~~( )

ii. Individuals who are employed by the state of Idaho, whose assigned work area is in the Capitol Mall, and who receive a state of Idaho-issued paycheck that is not issued by the State Controller's Office. This includes, but is not limited to, employees of the University of Idaho whose assigned work area is the Capitol Annex occupied by the University of Idaho. (3-25-22)

03. Temporary Meeting Parking Permits. Upon submission of an application by ~~a department~~ an agency tenant in the Capitol Mall, Capitol Mall Parking may issue temporary daily parking permits for meetings hosted by the department tenant. Parking will be allowed only in a limited number of parking spaces in the area designated by the permit and for the date set forth on the permit. ~~(3-25-22)~~( )

031. PARKING PERMIT FEES.
Pursuant to Sections 67-5701 and 67-5708, Idaho Code, parking permit fees will be established by the Department of Administration and administered by ~~Capitol Mall Parking~~ CMP. ~~(3-25-22)~~( )

01. **Elected Officials Parking Permits**. The governor, lieutenant governor, secretary of state, attorney general, state controller, state treasurer, superintendent of public instruction, Senate pro-tem, and the speaker of the House of Representatives will be provided a reserved parking space at no charge. Additionally, upon request, ~~Capitol Mall Parking~~ CMP will provide the governor four (4) additional reserved parking spaces. The fee for each additional reserved parking space provided to the governor will be the reserved parking permit monthly fee. ~~(3-25-22)~~( )

02. **Directors of Executive Branch Departments**. Directors of executive branch departments will be provided a reserved parking space at a cost not to exceed forty dollars ($40) per month. Executive branch departments will be charged for the reserved parking spaces annually by ~~Capitol Mall Parking~~ CMP. ~~(3-25-22)~~( )

03. **Reserved Parking Permits**. The fee for a reserved parking space permit will not exceed forty dollars ($40) per month. (3-25-22)

04. **General Parking Permits**. The fee for a general parking space permit will not exceed ten dollars ($10) per month. (3-25-22)

05. **Payment for Parking Permits**. Capitol Mall employees will be charged the respective permit fee in the first paycheck of each month through a payroll deduction or as determined by the State Controller. (3-25-22)

06. **Legislators**. Legislators and Legislative personnel must pay the associated space fee every month that the Legislature is in session for the eligible parking space permit. (3-25-22)

07. **State-Owned Vehicles**. State-owned vehicles belonging to the tenant departments will receive state vehicle parking permits for a monthly fee not to exceed fifteen dollars ($15). (3-25-22)

08. **Replacement Permits**. If a parking permit is lost, stolen or destroyed, the official, Legislator, or Capitol Mall employee will be charged a fee equal to the general permit monthly fee for a new permit. A statement attesting that the parking permit was lost, stolen or destroyed must be signed before ~~Capitol Mall Parking~~ CMP will issue a new permit. ~~(3-25-22)~~( )

032. -- 039. (RESERVED)

040. PARKING LOT VIOLATIONS.

01. **Driving Violations**. Any driving violation in a ~~Capitol Mall parking~~ CMP lot or garage may result in the suspension or loss of parking privileges. ~~(3-25-22)~~( )

a. It is a violation of these rules to drive or operate a personal vehicle negligently or recklessly in any ~~Capitol Mall parking~~ CMP lot or garage. ~~It is a violation of these rules to drive or operate a vehicle under the influence of illegal substances or alcohol in any Capitol Mall parking lot or garage.~~ ~~(3-25-22)~~( )

~~**b.** It is a violation for any individual to drive above the posted speed limits or drive against posted directional arrows.~~ ~~(3-25-22)~~

02. Parking Violations. Any parking violation in a ~~Capitol Mall parking~~ CMP lot or garage may result in the suspension or loss of parking privileges. ~~(3-25-22)~~( )

a. It is a violation of these rules to park in a location that is not marked as a parking space within the Capitol Mall. This includes, but is not limited to, parking in or on a driveway, sidewalk or other common driving areas of any parking lot or garage. It is also a violation to park one (1) vehicle in more than one (1) parking space. (3-25-22)

~~**b.** It is a violation to park in a Legislator parking space without displaying the appropriate reserved parking permit during the Legislative session or to park in a general parking space without displaying the appropriate general parking permit.~~ ~~(3-25-22)~~

~~c. It is a violation to park in a reserved parking space, in a reserved disabled employee parking space, ADA space, or in a reserved carpool parking space before 9 a.m., without displaying the appropriate parking permit. (3-25-22)~~

~~d~~b. It is a violation to park a motorcycle in any space not designated for motorcycle parking, unless a valid reserved parking permit is displayed and the motorcycle is parked in the designated reserved parking space. (3-25-22)

e. It is a violation to park or store a personal trailer in a ~~Capitol Mall parking~~ CMP lot. ~~(3-25-22)~~( )

f. It is a violation of these rules to: (3-25-22)

i. Use an invalid parking permit; (3-25-22)

ii. Use a parking permit reported lost or stolen; (3-25-22)

iii. Fail to properly display a valid ~~Capitol Mall parking~~ CMP permit; or ~~(3-25-22)~~( )

iv. Transfer an invalid permit to another person. (3-25-22)

g. It is a violation of these rules to park in one or more visitor parking spaces for a period in excess of the maximum period of use set forth in these rules. (3-25-22)

h. It is a violation of these rules for a CMP permit holder to park in a visitor parking space at any time. (3-25-22)

~~03. Other Violations. The Capitol Mall parking lots and garages are private property, and any tampering or other physical defacement of any vehicle parked on the lots or in the garage is considered a violation. (3-25-22)~~

~~a. The distribution of flyers or other materials on vehicles parked on Capitol Mall parking lots and in State Parking Garages #1and #2 is prohibited, and violators will be escorted off the property. (3-25-22)~~

~~b. Any individual engaging in suspicious activity or threatening behavior, or an individual loitering in a Capitol Mall parking lot or in State Parking Garages #1 and #2, will be escorted off the property. (3-25-22)~~

~~c. Public access is not allowed in State Parking Garages #1 and #2 before 6 a.m. and after 6 p.m. Violators will be considered trespassers. (3-25-22)~~

041. ENFORCEMENT.

01. Security and Patrol. Capitol Mall parking lots and State Parking Garages #1 and #2 are secured and patrolled by ~~Capitol Mall Parking~~ CMP, or its authorized representative. ~~(3-25-22)~~( )

02. Notice of Violation. Upon witnessing or finding a violation of these rules, ~~Capitol Mall Parking~~ CMP, or its authorized representative, will leave notice with the occupant of the vehicle or on the vehicle parked in violation of ~~these rules~~ this chapter. ~~(3-25-22)~~( )

a. Notice may be in the form of a warning or a ticket. The warning or ticket will indicate the date and hour of the violation, the nature of the violation, and the name of the ~~Capitol Mall Parking~~ CMP employee or its authorized representative. A warning or ticket may be issued only for those violations that do not cause the loss of a parking space and do not cause a safety hazard. (3-25-22)

~~b. A ticket may be issued by Capitol Mall Parking, or its authorized representative, for a fine of at least two dollars ($2), but not more than twenty-five dollars ($25). (3-25-22)~~

~~e~~b. If an individual is determined to have altered, counterfeited or otherwise misused a parking permit, a ticket may be issued by ~~Capitol Mall Parking~~ CMP, or its authorized representative, for a fine not to exceed fifty dollars ($50). ~~(3-25-22)~~( )

~~d. All tickets issued by Capitol Mall Parking, or its authorized representative, will be forwarded to the city of Boise, county of Ada, for collection or prosecution.~~ ~~(3-25-22)~~

~~e~~c. ~~Capitol Mall Parking~~CMP retains the right to suspend or revoke an individual's parking privileges if the warnings or tickets have been issued or fines imposed for repeated violations. ~~(3-25-22)~~( )

042. SUSPENSION OR REVOCATION OF PARKING PRIVILEGES.

01. Delinquent Payment. ~~Capitol Mall Parking~~ CMP may suspend or revoke any individual's parking permit if the parking permit fee is unpaid and at least thirty (30) days delinquent. Upon payment in full, ~~Capitol Mall Parking~~ CMP will restore the individual's parking permit. ~~(3-25-22)~~( )

02. Parking Privileges Suspension. (3-25-22)

a. ~~Capitol Mall Parking~~CMP may suspend an individual's parking permit and privileges for up to six (6) months for a violation of these rules. ~~(3-25-22)~~( )

b. Any ~~Capitol Mall Parking~~ CMP permit holder, including a temporary parking permit holder, who has been cited for three (3) violations of these rules within six (6) months, may have his parking permit and privileges revoked for up to twelve (12) months. ~~(3-25-22)~~( )

03. Towing and Impounding. (3-25-22)

a. ~~Capitol Mall Parking~~CMP or its authorized representative may tow any vehicle from any ~~Capitol Mall parking~~ CMP lot or the or State Parking Garages #1 and #2~~, belonging to an individual who has been cited for three (3) or more Capitol Mall parking violations within a twelve-month period~~. The owner of the vehicle is liable for any service fee owed for releasing the towed and impounded vehicle. ~~(3-25-22)~~( )

b. In the event that a vehicle is considered a security risk, ~~Capitol Mall Parking~~ CMP will make reasonable efforts to locate the owner of the vehicle before it is towed. ~~(3-25-22)~~( )

04. Reactivating a Suspended Permit. A suspended parking permit may be reactivated after the applicable suspension period ends by reapplying for the automatic payroll deduction plan through ~~Capitol Mall Parking~~ CMP and paying in full of any delinquent parking fees. ~~(3-25-22)~~( )

043. SURRENDER OF PARKING PERMIT.

01. Surrender of Permit. When ~~an~~ a state elected official, Legislator or Capitol Mall employee no longer works in the Capitol Mall or no longer needs to utilize ~~Capitol Mall parking~~ CMP, the individual must submit a request to ~~Capitol Mall Parking~~ CMP to cease automatic payroll deduction or billing for ~~Capitol Mall parking~~ CMP. The individual must surrender the parking permit to ~~Capitol Mall Parking~~ CMP within ten (10) days of the effective date of termination. ~~(3-25-22)~~( )

02. Cancellation of Automatic Payroll Deduction. (3-25-22)

a. ~~Capitol Mall Parking~~CMP will notify the individual's agency's payroll clerk to cease the monthly parking fee deduction. ~~Capitol Mall Parking~~ CMP will not refund a monthly parking fee after a monthly payroll deduction has been made. ~~(3-25-22)~~( )

b. Agency payroll clerks must receive a written request from ~~Capitol Mall Parking~~ CMP prior to deleting the monthly parking fee from the employee's payroll deduction schedule. ~~(3-25-22)~~( )

044. -- 049. (RESERVED)

050. LOADING ZONE PARKING SPACES.
~~Capitol Mall Parking~~CMP will designate and mark a limited number of parking spaces to be used for short-term collection or delivery services or by authorized service contractors. It is a violation to park in loading zone parking spaces for any unauthorized purpose. (3-25-22)

~~**051. WAIVER OF RULES.**~~
~~Pursuant to Section 67-5708, Idaho Code, the administrator for the Division of Public Works may waive any or all of the provisions of these rules if the administrator determines that application could result in discrimination among employees or otherwise violate law.~~ ~~(3-25-22)~~

05~~2~~1. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-2501

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. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of Idaho's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. It also updates citations to other federal regulations necessary to retain state primacy of Clean Air Act (CAA) programs.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, a public hearing has been scheduled and will be held as follows:

Friday, October 3, 2025, at 2:00 p.m. MT

ATTEND IN PERSON OR VIA MICROSOFT TEAMS

DEQ State Office
Conference Room A
1410 N. Hilton
Boise, ID 83706

The Teams meeting link is available at:
https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/air-quality-docket-no-58-0101-2501/

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests must be made no later than five (5) business days prior to the meeting date. For arrangements, contact the undersigned.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. The Rules for the Control of Air Pollution in Idaho, IDAPA 58.01.01, are updated annually to maintain consistency with federal regulations implementing the CAA. This proposed rule updates federal regulations incorporated by reference with the July 1, 2025 Code of Federal Regulations (CFR) effective date. The July 1, 2025 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2025.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho State Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution. DEQ will submit the final rule to EPA.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary:

Adoption of federal regulations is necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of CAA programs. Incorporation by reference allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference can be obtained at https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/air-quality-docket-no-58-0101-2501/.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting federal regulations that are necessary for EPA approval of Idaho's Title V Operating Permit Program and state primacy of CAA programs. Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

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

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Aislinn Johns at Aislinn.Johns@deq.idaho.gov or (208) 373-0185.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 3, 2025. Submit comments to the undersigned.

Dated this 3rd day of September, 2025.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208) 373-0165
Diane.Cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0101-2501
(Only Those Sections With Amendments Are Shown.)

58.01.01 – RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

107. INCORPORATIONS BY REFERENCE.

01. Requirements for Preparation, Adoption, and Submittal of Implementation Plans. 40 CFR Part 51 revised as of July 1, ~~2024~~ 2025. All sections included in 40 CFR Part 51, Subpart P, Protection of Visibility, are excluded from incorporation except 51.301, 51.304(a), 51.307, and 51.308 are incorporated by reference into these rules. ~~(7-1-25)~~( )

02. National Primary and Secondary Ambient Air Quality Standards. 40 CFR Part 50, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

03. Approval and Promulgation of Implementation Plans. 40 CFR Part 52, Subparts A and N and Appendices D and E, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

04. Ambient Air Monitoring Reference and Equivalent Methods. 40 CFR Part 53, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

05. Ambient Air Quality Surveillance. 40 CFR Part 58, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

06. Standards of Performance for New Stationary Sources. 40 CFR Part 60, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

07. National Emission Standards for Hazardous Air Pollutants. 40 CFR Part 61, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

08. Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008. 40 CFR Part 62, Subpart HHH, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

09. Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014. 40 CFR Part 62, Subpart OOO, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

10. National Emission Standards for Hazardous Air Pollutants for Source Categories. 40 CFR Part 63, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

11. Compliance Assurance Monitoring. 40 CFR Part 64, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

12. State Operating Permit Programs. 40 CFR Part 70, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

13. Permits. 40 CFR Part 72, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

14. Sulfur Dioxide Allowance System. 40 CFR Part 73, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

15. Protection of Stratospheric Ozone. 40 CFR Part 82, revised as of July 1, ~~2024~~ 2025. ~~(7-1-25)~~( )

16. Clean Air Act. 42 U.S.C. Sections 7401 through 7671g (1997). (7-1-24)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-2501

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 by Chapter 1, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 17, 2025. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to update incorporation by reference of the federal Consumer Confidence Report Rule and the Lead and Copper Rule. This rulemaking also makes non-substantive changes for clarity and ease of use, and a correction from previous rulemakings.

Incorporation by Reference of Consumer Confidence Report Rule
The Environmental Protection Agency (EPA) published the final Consumer Confidence Report (CCR) rule revisions in the Federal Register, 89 FR 45980, effective May 24, 2024 (40 CFR Part 141, Subpart O). The purpose of this rulemaking is to incorporate by reference the revisions into IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems. The proposed rule updates federal regulations incorporated by reference with the July 1, 2025 Code of Federal Regulations (CFR) effective date. The July 1, 2025 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2025.

EPA's final rule revisions improve readability, clarity and understandability of CCRs as well as the accuracy and accessibility of content and information presented, improve risk communication in CCRs, incorporate electronic delivery options, provide supplemental information regarding lead levels and control efforts, shorten certification deadlines, and increase report frequency and require systems that serve 10,000 or more persons to provide CCRs to customers biannually (twice a year). The updates aim to improve understandability, transparency, and public health communication.

CCRs were originally created under the “Right to Know” provisions to increase the amount of information made available by a community public water system to their consumers. The 2018 American Water Infrastructure Act required EPA to add revisions to the CCR requirements to improve consumer understanding of the information provided.

Incorporation by Reference of Lead and Copper Rule Improvements Rule
EPA published the final Lead and Copper Rule Improvements (LCRI) rule revisions in the Federal Register, 89 FR 86626, effective December 30, 2024 (40 CFR Part 141, Subpart I). The purpose of this rulemaking is to incorporate by reference the revisions into IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems. The proposed rule updates federal regulations incorporated by reference with the July 1, 2025 Code of Federal Regulations (CFR) effective date. The July 1, 2025 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2025.

In this rule, EPA has finalized requirements for drinking water systems to replace lead and certain galvanized service lines. The final rule also removes the lead trigger level, reduces the lead action level to 0.010 mg/L, and strengthens tap sampling procedures to improve public health protection and simplify implementation relative to the 2021 Lead and Copper Rule Revisions (LCRR). Further, this final rule strengthens corrosion control treatment, public communication and education, consumer awareness, requirements for small systems, and sampling in schools and child-care facilities. The final rule will significantly reduce the adverse human health impacts of exposure to toxic lead in drinking water.

In this rule, EPA extends the comprehensive deadline to November 1, 2027, for full compliance. The inventory deadline, which was October 16, 2024, was maintained. The state of Idaho has two years to obtain primacy of these rules from EPA, otherwise EPA will remain the regulatory authority for these rules over Idaho’s approximately 763 community public water systems and 249 non-community non-transient public water systems. These proposed rules

will provide the Department of Environmental Quality regulatory authority for the final rules, which is required to support primacy packages.

Non-substantive Revisions
These proposed rules also include non-substantive revisions for clarity and ease of use for water systems and other end users and delete outdated, obsolete language. These non-substantive revisions provide:

- Further regulatory reduction by removing incorporations by reference to specific sections of the Code of Federal Regulations that are already previously incorporated by reference through the overall subpart.
- Reorganization of the rule chapter so that the incorporations by reference of the subparts to 40 CFR 141 follow the same order as the federal regulations.
- One minor correction to the definition of "Non-Potable Fluids or Gases" (IDAPA 58.01.08.003.38) to ensure clarity of intent and application for gases that are lighter than air. The definition of "Non-Potable Fluid or Gases" was revised during Docket No. 58-0108-2301. This correction reinstates the definition to its previous version.
- Additional language was added for clarification in proposed rule Subsection 101.01, Approved Laboratories. This revision conforms proposed rule Subsection 101.01 with 40 CFR 141.28, which is incorporated by reference, and provides public drinking water systems with more flexibility to comply with sample analysis requirements by allowing use of laboratories certified by EPA for drinking water analysis. This clarification is necessary because, under the current rule (Subsection 100.08), it appears that systems are limited to using laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution.

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:

Adoption of federal regulations is necessary to maintain state program primacy, allows DEQ to keep its rules up to date with federal regulation changes, and simplifies compliance for the regulated community. Incorporation by reference ensures that Idaho's rules will be neither more nor less stringent than the federal rule. An electronic link to the incorporated material is available in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at https://www.deq.idaho.gov/drinking-water-docket-no-58-0108-2401/.

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: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible based on the following:

- DEQ has no discretion with respect to adopting federal regulations that are necessary to maintain state program primacy, and
- The remaining changes are organizationally-related, formatting-based, add clarity, or remove duplicative and unnecessary rule language, all of which are non-substantive changes.

While the rule is open for regulatory updates, DEQ proposes to reorganize sections for clarity and ease of use for water systems and other end users, ensuring no substantive changes are made outside of the two previously discussed incorporations by reference.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Tyler Fortunati at tyler.fortunati@deq.idaho.gov or (208) 373-0140.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 1, 2025. Submit written comments to:

Tyler Fortunati
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
tyler.fortunati@deq.idaho.gov

Dated this 3rd day of September, 2025.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208) 373-0165
Diane.Cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0108-2501
(Only Those Sections With Amendments Are Shown.)

58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

01. Incorporation by Reference. (7-1-24)

a. 40 CFR Part 141, revised as of July 1, ~~2024~~2025 (excluding annual monitoring provisions in 40 CFR 141.854(a)(4),(d),(e),(f) and (h), and the Aircraft Drinking Water Rule in Subpart X); and 40 CFR Part 143, revised as of July 1, 2024. ~~(7-1-25)~~( )

b. American Water Works Association (AWWA) Standards, effective December 2022, available for a fee from AWWA, https://www.awwa.org/Publications/Standards/Standards-List or available to be viewed through the Department's state office. (7-1-24)

02. Availability of Specific Referenced Material. Copies of specific documents referenced within these rules are available at the following locations: (7-1-24)

a. Recommended Standards for Water Works – Policies for the Review and Approval of Plans and Specifications for Public Water Supplies: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, most current edition, https://www.health.state.mn.us/communities/environment/water/tenstates/standards.html. (7-1-24)

b. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, https://nepis.epa.gov. (7-1-24)

c. NSF/ANSI Standard 53-2020, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-53-2020?product_id=2212861. (7-1-24)

d. NSF/ANSI Standard 55-2020, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-55-2020?product_id=2229644. (7-1-24)

e. NSF/ANSI Standard 58-2020, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, https://www.techstreet.com/nsf/ (or) https://www.techstreet.com/nsf/standards/nsf-ansi-58-2020?product_id=2206515. (7-1-24)

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03. Precedence. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules prevail. (7-1-24)

003. DEFINITIONS.

The definitions set forth in 40 CFR 141.2 are incorporated by reference, The terms "board," "director," "department," and "person" have the meaning provided in Section 39-103, Idaho Code. The term "watersheds" has the meaning provided in Section 39-3602, Idaho Code. The terms "distribution system," "license," "responsible charge," and "responsible charge operator" have the meaning provided in Section 54-2403, Idaho Code. The term "public utility" has the meaning provided in Section 61-129, Idaho Code. The term "pesticide" has the meaning provided in Section 22-3401, Idaho Code. (7-1-24)

01. Aquifer. A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. (7-1-24)

02. Backflow. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (7-1-24)

03. Capacity. The capabilities required of a public drinking water system (PWS) in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act (SDWA). It is divided into three (3) main elements: (7-1-24)

a. Technical capacity means the PWS has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of PWS personnel to adequately operate and maintain the PWS and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (7-1-24)

b. Financial capacity means the financial resources of the PWS, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (7-1-24)

c. Managerial capacity means that the management structure of the PWS embodies the aspects of system operations, including, but not limited to; (7-1-24)

i. Short and long range planning; (7-1-24)

ii. Personnel management; (7-1-24)

iii. Fiduciary responsibility; (7-1-24)

iv. Emergency response; (7-1-24)

v. Customer responsiveness; (7-1-24)

vi. Source water protection; (7-1-24)

vii. Administrative functions such as billing and consumer awareness; and (7-1-24)

viii. Ability to meet the intent of the federal SDWA. (7-1-24)

04. Components of Finished Water Storage. Storage is available to serve the system if the storage structure or facility is elevated sufficiently or is equipped with sufficient booster pumping capability to pressurize the system. Components of finished water storage are further defined as: (7-1-24)

a. Dead Storage is storage that is either not available for use in the system or can provide only substandard flows and pressures. (7-1-24)

b. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of this Subsection. (7-1-24)

c. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of; (7-1-24)

i. The volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed; or (7-1-24)

ii. The volume needed to compensate for the sensitivity of the water level sensors. (7-1-24)

d. Equalization Storage is storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. (7-1-24)

e. Fire Suppression Storage is the water needed to support fire flow in those systems that provide it. (7-1-24)

f. Standby storage provides a measure of reliability or safety factor if sources fail or when unusual conditions impose higher than anticipated demands. Normally used for emergency operation, if standby power is not provided, to provide water for eight (8) hours of operation at average day demand. (7-1-24)

05. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (7-1-24)

a. Comprehensive Performance Evaluation (CPE). As defined in 40 CFR 141.2. (7-1-24)

b. Comprehensive Technical Assistance (CTA) is the implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the PWS must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (7-1-24)

06. Confining Layer. A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (7-1-24)

07. Consumer. Any person served by a PWS. (7-1-24)

08. Consumer Confidence Report (CCR). An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the PWS and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (7-1-24)

09. Cross Connection. An actual or potential connection or piping arrangement between a drinking water system and another source that could introduce contamination into the potable water system through backflow, backsiphoning, or backpressure. (7-1-24)

10. Dead End Main. A distribution main of any diameter and length that does not loop back into the distribution system. (7-1-24)

11. Direct Integrity Test (DIT). A physical test applied to a microfiltration or ultrafiltration membrane unit in order to identify integrity breaches. (7-1-24)

12. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (7-1-24)

13. Effective Contact Time. For the purpose of these rules, effective contact time means the time in minutes that it takes for water to move from the point of completely mixed chemical application to the point where residual concentration is measured. It is the "T" in contact time (CT) calculations and is either "demonstrated" or "calculated." It is the contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation and must be demonstrated through tracer studies or other evaluations or calculations acceptable to the Department. "Improving Clearwell Design for CT Compliance," referenced in Subsection 002.02, contains information that may be used as guidance for these calculations. (7-1-24)

14. Equivalent Dwelling Unit (EDU). A unit of measure that standardizes all land use types (housing, retail, office, etc.) to the level of demand created by a single-family detached housing unit within a water system. The demand for one (1) equivalent dwelling unit is equivalent to the amount of water provided to the average single-family detached housing unit within a water system. For example, a business designed to use three (3) times as much water as an average single-family detached housing unit will have a demand of three (3) equivalent dwelling units. (7-1-24)

15. Exemption. A temporary deferment of compliance with a maximum contaminant level or

treatment technique requirement which may be granted only if the PWS demonstrates to the satisfaction of the Department that the PWS cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (7-1-24)

16. Facility Plan. The facility plan for a PWS describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/ facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. (7-1-24)

17. Filtrate. As the term relates to microfiltration and ultrafiltration, the product water or the portion of the feed stream that has passed through the membrane. (7-1-24)

18. Finished Water Storage Structures or Facilities. Finished water storage structures or facilities are defined as: (7-1-24)

a. Above-ground storage structure or facility is a finished water storage structure or facility with a bottom elevation above normal ground surface. (7-1-24)

b. Ground-level storage structure or facility is a finished water storage structure or facility with a bottom elevation at normal ground surface. (7-1-24)

c. Partially buried storage structure or facility is a finished water storage structure or facility with a bottom elevation below normal ground surface and any portion of the structure or facility above normal ground surface. (7-1-24)

d. Below-ground storage structure or facility is a finished water storage structure or facility with a bottom elevation and top elevation below normal ground surface. (7-1-24)

19. Fire Flow Capacity. The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority or through a hydraulic analysis performed by a licensed professional engineer to establish required fire flows in accordance with the International Fire Code as adopted by the State Fire Marshal. (7-1-24)

20. Fire Suppression Storage. The water needed to support fire flow in those systems that provide it. See also the definition of Components of Finished Water Storage in these rules. (7-1-24)

21. Fixture Protection. The practice of installing backflow prevention assemblies or devices to isolate one (1) or more cross connections within a customer’s facility. (7-1-24)

22. Flux. The throughput of a pressure-driven membrane filtration process expressed as flow per unit of membrane area, usually in gallons per square foot per day or liters per hour per square meter. (7-1-24)

23. Health Hazard. Any condition, operation, or practice in a PWS which creates, or has the potential to create, an acute or immediate danger to the consumer's health. (7-1-24)

24. Indirect Integrity Monitoring. Monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. (7-1-24)

25. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. (7-1-24)

26. Internal or In-Plant Isolation. The practice of installing backflow prevention assemblies to protect an area within a water customer’s structure, facility, or premises from contaminating another part of the structure, facility, or premises. (7-1-24)

27. Like-Kind Replacement. Repair or replacement of a system component that is identical in capacity, exhibits equivalent design, operational, and material parameters, and does not result in an increase in system capacity or alter existing methods or processes. (7-1-24)

28. Log. Logarithm to the base ten (10). In the context of these rules, it is used in the determination of removal or inactivation efficiencies. It is expressed as the logarithm to the base ten (10) or "log" of the concentration of the feed or raw water minus the log of the concentration in the filtrate or product water. For example, if the incoming feed or raw water concentration is one hundred (100), and the outgoing filtrate or product water concentration is ten (10), a 10-fold reduction was attained; or 1-log removal. 1-log removal also equates to ninety percent (90%) removal, as ninety (90) of the original feed concentration counts had been removed, leaving ten (10) in the filtrate. Similarly, 2-log equates to ninety-nine percent (99%) removal. (7-1-24)

29. Log Removal Value (LRV). LRV is a measure of filtration removal efficiency for a target organism, particulate, or surrogate expressed as Logarithm to the base ten (10). (7-1-24)

30. Material Deviation. A change from the design plans that significantly alters the type or location of system components. (7-1-24)

31. Material Modification. Modifications of an existing PWS that increase system capacity or alter the methods or processes employed. Increasing system capacity occurs by adding a new water source to a PWS, increasing the pumping and hydraulic capacity of the PWS, increasing potable water demand, or increasing the number of service connections. Altering methods or processes employed occurs by adding new, or altering existing, system components to satisfy increasing potable water demand, or changing engineering design intent of potable water delivery or treatment. Maintenance as outlined in the approved operation and maintenance manual, or maintenance that does not meet the criteria of a material modification described in this definition, is not a material modification. Like-kind replacement is not considered a material modification. (7-1-24)

32. Maximum Pumping Capacity. The pumping capacity with the largest source or pump out of service. (7-1-24)

33. Membrane Unit. A group of treatment systems or membrane modules that usually share common control and valving so that the group can be isolated for testing or cleaning. (7-1-24)

34. Microfiltration (MF). A low-pressure membrane filtration process with pore diameter normally in the range of 0.1 to 0.5 µm. (7-1-24)

35. Module. As the term relates to membrane filtration, it is the smallest component of a membrane unit in which a specific membrane surface area is housed. The component is typically equipped with a feedwater inlet, a filtrate outlet, and concentrate or backwash outlet structure. (7-1-24)

36. Nanofiltration (NF). A membrane filtration process that removes dissolved constituents from water. Nanofiltration is similar to reverse osmosis but allows a higher percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. (7-1-24)

37. New System. Any water system that meets, for the first time, the definition of a PWS, which includes systems that are entirely new construction or previously unregulated systems that increased either the population served or connections. (7-1-24)

38. Non-Potable Fluids ~~or Gases~~. Any fluids ~~or gases~~ that do not meet the definition of potable water. This definition also includes any gases that are heavier than air. ~~(7-1-24)~~( )

39. Non-Potable Mains. Pipelines that collect, deliver, or otherwise convey non-potable fluids. (7-1-24)

40. Non-Potable Services or Lines. Pipelines that collect, deliver, or otherwise convey non-potable fluids to or from a non-potable main. These pipelines connect individual facilities to the non-potable main. This term

also refers to pipelines that convey non-potable fluids from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (7-1-24)

41. Operating Shift. Any period of time during which a licensed operator must be present, or available, for proper operation or oversight of the PWS. (7-1-24)

42. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of the volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed or the volume needed to compensate for the sensitivity of the water level sensors. See also the definition of Components of Finished Water Storage in these rules. (7-1-24)

43. Operation and Maintenance Manual. A comprehensive document that provides procedures for the operations and maintenance of the PWS. The manual typically covers three main subjects: a water system specific operations plan (see definition of Operations Plan); maintenance information and checklists; and manufacturer's product information (including trouble shooting information, a parts list and parts order form, special tools, spare parts list, etc.). An operation and maintenance manual may cover every aspect of the water system or any part of the water system, including but not limited to the following: treatment, pump stations, storage reservoirs, distribution system, pressure reducing valve stations, etc. (7-1-24)

44. Operations Plan. The operations plan is part of an operation and maintenance manual. Depending on which facilities of the PWS are being addressed, the operations plan may cover many types of information including but not limited to the following: daily, weekly, monthly, and yearly operating instructions; information specific to a particular type of treatment; location of valves and other key distribution system features; pertinent telephone and address contact information including the responsible charge PWS operator and PWS owner; operator safety procedures; alarm system; emergency procedures; trouble-shooting advice; water quality testing; depressurization events; customer service; and response to customer complaints. (7-1-24)

45. Owner/Purveyor of Water/Supplier of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the PWS, who provides, or intends to provide, drinking water to the customers, and who is ultimately responsible for the PWS operation. (7-1-24)

46. Plant Design Capacity. The maximum design flow through treatment units. The minimum plant design capacity may be equal to peak hour demand but may also be equal to the maximum day demand if equalization storage is provided. (7-1-24)

47. Plant. A physical facility where drinking water is treated or processed. (7-1-24)

48. Point of Use (POU) Treatment System. A collection of POU treatment devices. (7-1-24)

49. Potable Mains. Pipelines that deliver potable water to multiple service connections. (7-1-24)

50. Potable Services. Pipelines that convey potable water from a service connection to the potable water main to individual consumers. (7-1-24)

51. Potable Water. Water for human consumption. Also referred to as Water for Human Consumption or Drinking Water. (7-1-24)

52. Preliminary Engineering Report (PER). A report that addresses specific portions of the PWS or facility for which material modifications are being designed. Material modifications may include, but are not limited to, significant changes to existing processes or facilities, PWS expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. (7-1-24)

53. Premises Isolation or Containment. The practice of separating the customer's structure, facility,

or premises from the purveyor's PWS by means of a backflow prevention assembly installed on the service line before any distribution takes place. (7-1-24)

54. Protected Water Source. For the purposes of the Revised Total Coliform Rule (40 CFR Part 141, Subpart Y), a protected water source is a groundwater well that is not susceptible to contamination on the basis of well construction, hydrologic data, or contamination history. (7-1-24)

55. Public Notice. The notification to PWS consumers of information pertaining to that PWS including information regarding water quality or compliance status of the PWS. (7-1-24)

56. Public Drinking Water System (PWS). A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "non-community water system" as further defined as: (7-1-24)

a. Community water system. A PWS which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (7-1-24)

b. Non-community water system. A PWS that is not a community water system. A non-community water system is either a transient non-community water system or a non-transient non-community water system. (7-1-24)

c. Non-transient non-community water system. A PWS that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (7-1-24)

d. Transient non-community water system. A non-community water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (7-1-24)

57. Public Water System (PWS)/Water System/System. Means "public drinking water system." (7-1-24)

58. Pump House. A structure containing important water system components, such as a well, hydro-pneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (7-1-24)

59. Qualified Licensed Professional Engineer (QLPE). A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (7-1-24)

60. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. (7-1-24)

61. Raw Water. Raw water is any groundwater, spring water, or surface water utilized as source water prior to treatment for the purpose of producing potable water. (7-1-24)

62. Redundancy. The installation of duplicate components or backup systems that are designed to maintain minimum pressure and capacity of the PWS if any component fails or is otherwise out of service for maintenance or repair. (7-1-24)

63. Reverse Osmosis (RO). A membrane filtration process that removes dissolved constituents from water. Reverse osmosis is similar to nanofiltration but allows a lower percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. (7-1-24)

64. Resolution. As the term relates to membrane treatment, it is the size of the smallest integrity breach that contributes to a response from a direct integrity test when testing low pressure membranes. (7-1-24)

65. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 504.03.b., the qualified Idaho licensed professional engineer (QLPE) is also the reviewing authority. (7-1-24)

66. Sampling Point. The location in a PWS from which a sample is drawn. (7-1-24)

67. Sensitivity. As the term relates to membrane treatment, it is the maximum log removal value (LRV) for a specific resolution that can be reliably verified by the direct integrity test associated with a given low pressure membrane filtration system. (7-1-24)

68. Service Connection. Each structure, facility, or premises which is connected to a PWS water source, and which is or may be used for domestic purposes. (7-1-24)

69. Sewage. Water-carried human wastes from residences, buildings, and industrial establishments and other places, together with groundwater infiltration and surface water as may be present. (7-1-24)

70. Significant Deficiency. Any defect in a PWS's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, the introduction of contamination into the water delivered to consumers. (7-1-24)

71. Simple Water Main Extension. New or replacement water main(s) that require plan and specification review by a qualified licensed professional engineer (QLPE) or by the Department per these rules and that is connected to existing water main facilities and does not require the addition of system components designed to control quantity or pressure, including, but not limited to, booster stations, new sources, pressure reducing valve stations, or reservoirs; and continues to provide the pressure and quantity requirements of Subsection 552.01. (7-1-24)

72. Spring. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (7-1-24)

73. Standby Storage. Standby storage provides a measure of reliability or safety factor if sources fail or when unusual conditions impose higher than anticipated demands. See also the definition of Components of Finished Water Storage in these rules. (7-1-24)

74. Substantially Modified. The Department considers a PWS to be substantially modified when, as the result of one (1) or more material modifications to the PWS, there is a combined increase of twenty-five percent (25%)in any one or combination of the following: the population served or number of service connections, the total length of transmission and distribution water mains, the total source capacity, or the peak or average water demand for the PWS. Material modifications completed after May 8, 2009, are the only modifications counted towards the twenty-five (25%) increase. Like-kind replacement of components will not be counted toward a combined increase of twenty-five percent (25%) calculation. Removal of existing system components will not be used to reduce the combined increase of twenty-five percent (25%) calculation. (7-1-24)

75. Substitute Responsible Charge Operator. An operator of a PWS who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the PWS owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (7-1-24)

76. Surface Water System. A PWS which is supplied by one (1) or more surface water sources or

groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (7-1-24)

77. Treatment Facility. Any place(s) where a PWS alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (7-1-24)

78. Turbidity. Measure of the interference of light passage through water, or visual depth restriction from the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton, and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light-scattering and absorbing properties of a water sample. Turbidity is measured by the nephelometric method. (7-1-24)

79. Ultrafiltration (UF). A low pressure membrane filtration process with pore diameter normally in the range of five thousandths to one tenth micrometer (0.005 to 0.1 µm). (7-1-24)

80. UV Transmittance (UVT). A measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of two hundred fifty-four (254) nm and a path length of one (1) cm. It is often represented as a percentage. (7-1-24)

81. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (7-1-24)

82. Use Assessment. For the purpose of obtaining a waiver from certain monitoring requirements, a use assessment is an evaluation as to whether synthetic organic contaminants are being or have been used, manufactured, transported, stored, or disposed of in the watershed for surface water or the zone of influence for groundwater. (7-1-24)

83. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the PWS demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the determent does not cause an unreasonable risk to public health. (7-1-24)

84. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (7-1-24)

85. Vulnerability Assessment. Related to monitoring waiver decisions, a determination of the risk of future contamination of a public drinking water supply. (7-1-24)

86. Waiver. (7-1-24)

a. Except for Sections 500 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (7-1-24)

b. For purposes of Sections 500 through 552, "waiver" means the dismissal or modification of any requirement of compliance. (7-1-24)

c. For the purposes of Section ~~010~~004, "waiver" means the deferral of a fee assessment for a PWS. ~~(7-1-24)~~( )

87. Wastewater. Combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. (7-1-24)

88. Water Demand. The volume of water requested by PWS users to satisfy their needs. Water demand can be further categorized as: (7-1-24)

a. Average day demand is the volume of water used by a PWS on an average day based on a one (1) year period. (7-1-24)

b. Maximum day demand is the average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. (7-1-24)

c. Peak hour demand is the highest hourly flow, excluding fire flow, that a PWS or distribution system pressure zone is likely to experience in the design year. (7-1-24)

89. Water Main. A pipe within a PWS which is under the control of the PWS operator and conveys water to two (2) or more service connections or conveys water to a fire hydrant. The collection of water mains within a given water supply is called the distribution system. (7-1-24)

004. WAIVERS, VARIANCES, AND EXEMPTIONS.
40 CFR 141.4 is incorporated by reference. (7-1-24)

01. Monitoring Waivers. 40 CFR 141.23(b), 141.23(c), 141.24(f), 141.24(h) are incorporated by reference. (7-1-24)

a. Waivers from sampling requirements in ~~Subsections 100.03, 100.04, 200.01,~~ Section 101 and Subsection 503.03.e.v. may be available to all PWSs for all contaminants except nitrate, nitrite, and disinfection byproducts and are based upon a vulnerability assessment, use assessment, the analytical results of previous sampling, or some combination of vulnerability assessment, use assessment, and analytical results. ~~(7-1-24)~~( )

b. If a PWS elects to request a waiver from monitoring, it must do so in writing at least sixty (60) days prior to the required monitoring deadline date. (7-1-24)

c. Waiver determinations are to be made by the Department on a contaminant specific basis and must be in writing. (7-1-24)

d. PWSs which do not receive waivers must sample at the required, monitoring frequencies (7-1-24)

02. Facility, Design Standard, and Operating Criteria Waivers. The Department may waive any requirement of Sections 500 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the Department's satisfaction that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a PWS. (7-1-24)

03. Variances. (7-1-24)

a. A general variance may be granted by the Department if a PWS owner submits a written request and demonstrates to the satisfaction of the Department that the minimum requirements of 42 USC Section 1415(a) (SDWA) are met. (7-1-24)

b. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a PWS owner submits a written request and demonstrates to the satisfaction of the Department that the minimum requirements of 42 USC Section 1415(e) (SDWA) are met. (7-1-24)

04. Exemptions. An exemption may be granted by the Department if a PWS owner submits a written request and demonstrates to the satisfaction of the Department that the minimum requirements of 42 USC Section 1416(a) (SDWA) are met. (7-1-24)

05. Conditions. A waiver, exemption, or variance may be granted upon any conditions that the Department, determines are appropriate and in accordance with these rules. Failure by the PWS owner to comply with any condition voids the waiver, variance, or exemption. (7-1-24)

06 Public Hearing. The Department will provide public notice and an opportunity for public hearing

in the area served by the PWS before any exemption or variance under Section ~~005~~004 is granted by the Department. At the conclusion of the hearing, the Department will record the findings and issue a decision approving, denying, modifying, or conditioning the request. ~~(7-1-24)~~( )

005. DISAPPROVAL DESIGNATION.
The Department may assign a disapproved designation to a PWS when: (7-1-24)

01. Defects. There are design or construction defects, significant deficiencies, or health hazards; or (7-1-24)

02. Operating Procedures. Operating procedures constitute a health hazard; (7-1-24)

03. Quality. Violations of chemical, microbiological, radiological, or per- and polyfluoroalkyl substances maximum contaminant levels or action levels of these rules; (7-1-25)

04. Monitoring. Violations of monitoring requirements as specified in these rules; (7-1-24)

05. Unapproved Source. An unapproved source of drinking water is used or the PWS is interconnected with a disapproved water system; or (7-1-24)

06. Non-Payment of Annual Fee Assessment. The annual drinking water system fee assessment is not paid as set forth in Section ~~010~~007. ~~(7-1-24)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

007. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.
All owners of PWSs must pay an annual drinking water system fee. The fee will be assessed as provided in this section. The Department may waive the requirements of this section at its discretion. (7-1-24)

01. Effective Date. Annual fees will be paid for each fee year. Fee years begin on October 1 of each calendar year. (7-1-24)

02. Fee Schedule. (7-1-24)

a. Owners of community and non-transient non-community PWSs must pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	$100
21 to 184	$5 per connection, not to exceed a total of $735 per PWS
185 to 3,663	$4 per connection, not to exceed a total of $10,988 per PWS
3,664 or more	$3 per connection

(7-1-24)

b. The annual fee for transient PWSs is twenty-five dollars ($25). (7-1-24)

c. New PWSs formed after October 1 will not pay a fee until the following October. (7-1-24)

03. Fee Assessment. (7-1-24)

a. An annual fee assessment will be generated for each community and non-transient non-community

PWS using the number of connections the Department has on record. (7-1-24)

b. Community and non-transient non-community PWSs will be notified each year of the official number of connections listed in SDWIS. PWSs will have at least one (1) month to notify the Department if the number of connections provided are not in agreement with the PWS's records. (7-1-24)

04. Billing. An annual fee statement will be mailed or delivered electronically to all PWS owners on record with the Department by September 1 of each year and will include acceptable payment methods. (7-1-24)

05. Payment. (7-1-24)

a. Annual fee payment will be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment will be due on the successive business day. (7-1-24)

b. If a PWS consists of two hundred fifty (250) connections or more, the PWS may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department. (7-1-24)

i. The Department will notify PWSs of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of receiving the request. (7-1-24)

ii. If a PWS has been approved to pay monthly installments then each installment will be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment will be due on the successive business day. (7-1-24)

iii. If a PWS has been approved to pay quarterly installments then each installment will be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment will be due on the successive business day. (7-1-24)

06. Delinquent Unpaid Fees. A PWS owner will be delinquent in payment if its annual fee assessment has not been received by November 1; or if having opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the last day of the month in which the monthly or quarterly payment is due. (7-1-24)

07. Suspension of Services and Disapproval Designation. (7-1-24)

a. For any PWS owner delinquent in payment of fee assessed under Subsections 010.02, in excess of ninety (90) days, technical assistance provided by the Department may be suspended except for review and processing of: (7-1-24)

i. Monitoring waivers; (7-1-24)

ii. Engineering reports; and (7-1-24)

iii. Plans and specifications for design and construction as set forth in Sections 500 through 552. (7-1-24)

b. For any PWS owner delinquent in payment of fee assessed under Subsections ~~010~~007.02, in excess of one hundred and eighty (180) days, the Department may disapprove the PWS pursuant to Subsection 007.06 and may suspend all technical assistance provided including review and processing of: ~~(7-1-24)~~( )

i. Engineering reports; (7-1-24)

ii. Plans and specifications for design and construction as set forth in Sections 500 through 552; or (7-1-24)

iii. Monitoring waivers (7-1-24)

08. Reinstatement of Suspended Services and Approval Status. For any PWS owner for which suspension of technical assistance, disapproval, or both has occurred, reinstatement of technical assistance, approval, or both, will occur upon payment of delinquent annual fee assessments. (7-1-24)

09. Responsibility to Comply. Subsection ~~010~~007.07 in no way relieves any PWS from its obligation to comply with these rules. ~~(7-1-24)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

~~**010. CONFIDENTIALITY OF RECORDS.**~~
~~Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-107 and IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records."~~ ~~(7-1-24)~~

010. DRINKING WATER ADVISORY COMMITTEE.
Ongoing stakeholder involvement will be provided through the existing drinking water advisory committee at the Department. ( )

011. -- 049. (RESERVED)

050. LICENSED OPERATOR REQUIREMENTS.

01. Licensed Operator Required. Owners of all community, non-transient non-community, and surface water or groundwater sources directly influenced by surface water must place the direct supervision of their PWS under the responsible charge of a properly licensed operator at all times. When the responsible operator is not available, the PWS owner must designate a substitute responsible operator. ( )

02. Responsible Charge Operator License Requirement. An operator in responsible charge of a PWS must hold a valid Idaho license equal to or greater than the classification of the PWS where the responsible charge operator is in charge. ( )

03. Water Operator License Requirement. All operating personnel at PWSs subject to these requirements making process control/ system integrity decisions about water quality or quantity that can affect public health must hold a valid Idaho license. ( )

04. Water Operator License Upgrade Allowance. A twelve (12) month period will be provided to meet increased drinking water distribution system operator licensure requirements when a higher licensure level is required based on a population increase if the following requirements are met: ( )

a. The licensure increase is triggered solely by a population increase; and ( )

b. The responsible charge operator of the PWS at the time the distribution licensure requirement increases remains the responsible charge operator throughout the twelve (12) month time frame. ( )

051. CONTRACTING FOR SERVICES.
PWS owners who contract with persons to provide responsible charge operators and substitute responsible charge operators need to submit proof of such contract to the Department prior to the contracted person performing any services at the PWS. ( )

052. CLASSIFICATION OF WATER SYSTEMS.

01. System Classification Required. The Department will classify community, non-transient non-community, and surface water PWSs based on indicators of potential health risks. ( )

02. **Classification Criteria**. PWSs are classified under a system that uses the following criteria: ( )

a. Complexity, size, and type of source water for treatment facilities. ( )

b. Complexity and size of distribution systems. ( )

c. Other criteria deemed necessary to completely classify PWSs. ( )

d. The Department will develop guidelines for applying the criteria set forth in Section 052. ( )

03. **Classification Review**. The Department will review PWS classifications on a minimum five (5) year frequency. ( )

053. – 099. **(RESERVED)**

~~050~~100. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.
40 CFR Part 141, Subparts B and G are incorporated by reference. ( )

~~**01.** **Maximum Contaminant Levels for Inorganic Contaminants**.40 CFR 141.11 and 141.62 are incorporated by reference. (7-1-24)~~

~~**02.** **Maximum Contaminant Levels for Organic Contaminants**. 40 CFR 141.61 is incorporated by reference. (7-1-24)~~

~~**03.** **Maximum Contaminant Levels for Turbidity**. 40 CFR 141.13 is incorporated by reference. (7-1-24)~~

~~**04.** **Maximum Contaminant Levels for Radionuclides**. 40 CFR 141.66 is incorporated by reference. (7-1-24)~~

~~**05.** **Maximum Contaminant Levels for Microbiological Contaminants**. 40 CFR 141.63 is incorporated by reference. (7-1-24)~~

~~**06.** **Maximum Contaminant Levels for Disinfection Byproducts**. 40 CFR 141.64 is incorporated by reference. (7-1-24)~~

~~**07.** **Maximum Residual Disinfectant Levels**. 40 CFR 141.65 is incorporated by reference. (7-1-24)~~

~~**08.** **Maximum Contaminant Levels for Per- and Polyfluoroalkyl Substances (PFAS)**. 40 CFR 141.61(c)(2) is incorporated by reference. (7-1-25)~~

~~**051. – 099.** **(RESERVED)**~~

10~~0~~1. MONITORING AND ANALYTICAL REQUIREMENTS.
40 CFR Part 141, Subparts C~~, is~~ and E are incorporated by reference. ~~(7-1-24)~~( )

~~**01.** **Total Coliform Sampling and Analytical Requirements**. The Total Coliform Rule, 40 CFR 141.21, is incorporated by reference. The Revised Total Coliform Rule, 40 CFR Part 141, Subpart Y, is incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f) and (h). (7-1-24)~~

~~**02.** **Turbidity Sampling and Analytical Requirements**. 40 CFR 141.22 is incorporated by reference. (7-1-24)~~

~~**03.** **Inorganic Chemical Sampling and Analytical Requirements**. 40 CFR 141.23 is incorporated by reference. (7-1-24)~~

~~**04.** **Organic Chemicals, Sampling and Analytical Requirements**. 40 CFR 141.24 is incorporated by~~

~~reference.~~ ~~(7-1-24)~~

~~**05. Analytical Methods for Radioactivity**. 40 CFR 141.25 is incorporated by reference.~~ ~~(7-1-24)~~

~~**06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems**. 40CFR 141.26 is incorporated by reference.~~ ~~(7-1-24)~~

~~**07. Alternate Analytical Techniques**. 40 CFR 141.27 is incorporated by reference.~~ ~~(7-1-24)~~

0~~8~~1. **Approved Laboratories**. 40 CFR 141.28 and 141.852(b) are incorporated by reference. All analyses conducted pursuant to these rules, except those listed below, must be performed in laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories, as provided in ~~IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories."~~ Chapter 22 [24], Title 56, Idaho Code, Drinking Water Laboratory Certification Program, or performed in laboratories certified by the U.S. Environmental Protection Agency. The following analyses may be performed by any person acceptable to the Department: ~~(7-1-24)~~( )

a. pH; (7-1-24)

b. Turbidity (Nephelometric method only); (7-1-24)

c. Daily analysis for fluoride; (7-1-24)

d. Temperature; (7-1-24)

e. Disinfectant residuals, except ozone, will be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection ~~300.05.d.~~104.03.d.; ~~(7-1-24)~~( )

f. Alkalinity; (7-1-24)

g. Calcium; (7-1-24)

h. Conductivity; (7-1-24)

i. Silica; and (7-1-24)

j. Orthophosphate. (7-1-24)

~~**09. Monitoring of Consecutive Water Systems**. 40 CFR 141.29 is incorporated by reference.~~ ~~(7-1-24)~~

~~**10. Disinfection Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors**. 40 CFR Part 141, Subpart L, is incorporated by reference.~~ ~~(7-1-24)~~

~~11~~02. **Monitoring**. The department may alter the monitoring requirements specified in these rules if the department determines that such alteration is necessary to adequately assess the level of contamination. (7-1-24)

~~**12. Special Monitoring for Sodium**. 40 CFR 141.41 is incorporated by reference.~~ ~~(7-1-24)~~

~~**13. Special Monitoring for Corrosivity Characteristics**. 40 CFR 141.42 is incorporated by reference.~~ ~~(7-1-24)~~

~~**14. Monitoring & Analytical Requirements for Per- and Polyfluoroalkyl Substances (PFAS)**. 40 CFR 141.901 and 141.902 are incorporated by reference.~~ ~~(7-1-25)~~

~~**101. – 149. (RESERVED)**~~

1502. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.

01. Reporting and Record Keeping Requirements. 40 CFR Part 141.31, Subpart D is incorporated by reference. (7-1-24)( )

02. Public Notification of Drinking Water Violations. 40 CFR Part 141, Subpart Q is incorporated by reference. (7-1-24)

~~**03. Record Maintenance**. 40 CFR 141.33 is incorporated by reference.~~ ~~(7-1-24)~~

~~**04. Reporting for Unregulated Contaminant Monitoring Results**. 40 CFR 141.35 is incorporated by reference.~~ ~~(7-1-24)~~

~~**05. Reporting and Record Keeping Requirements for the Interim Enhanced Surface Water Treatment Rule**. 40 CFR 141.175 is incorporated by reference.~~ ~~(7-1-24)~~

~~**06. Reporting and Record Keeping Requirements for the Disinfectants and Disinfectant Byproducts Rule**. 40 CFR 141.134 is incorporated by reference.~~ ~~(7-1-24)~~

~~**07. Reporting and Record Keeping Requirements for the Revised Total Coliform Rule**. 40 CFR 141.861 is incorporated by reference.~~ ~~(7-1-24)~~

083. Public Notification. The Department may require the owner of a PWS that has been disapproved to notify the public. The manner, content, and timing of this notification will be determined by the Department. This is in addition to any provisions set forth in Section 150102 that may also apply. ~~(7-1-24)~~( )

094. Public Notification for Low System Pressure. (7-1-24)

a. During unplanned or emergency situations, when water pressure within the system is known to have fallen below twenty (20) psi, the water supplier must notify the Department, provide public notice to the affected customers within twenty-four (24) hours, and disinfect or flush the system as appropriate. When sampling and corrective procedures have been conducted and after determination by the Department that the water is safe, the water supplier may re-notify the affected customers that the water is safe for consumption. The water supplier must notify the affected customers if the water is not safe for consumption. (7-1-24)

b. During planned maintenance or repair situations, when water pressure within the system is expected to fall below twenty (20) psi, the water supplier must provide public notice to the affected customers prior to the planned maintenance or repair activity and notify customers that the water is safe for consumption. (7-1-24)

~~**10. Reporting and Record Keeping Requirements for Per- and Polyfluoroalkyl Substances (PFAS)**. 40 CFR 141.904 is incorporated by reference.~~ ~~(7-1-25)~~

103. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.
40 CFR Part 141, Subpart F is incorporated by reference. ( )

104. FILTRATION AND DISINFECTION.
40 CFR Part 141, Subpart H is incorporated by reference. ( )

01. Filtration. ( )

a. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise allowed the Department, the maximum log removal credit allowed for filtration is as follows: ( )

Maximum Log Removal

Filtration Type	Giardia lamblia	Viruses	Cryptosporidium
Conventional	2.5	2.0	2.5
Direct	2.0	1.0	2.0
Slow sand	2.0	2.0	2.0
Diatomaceous earth	2.0	1.0	2.0
Microfiltration	3.0	0.5	3.0
Ultrafiltration	3.5	2.0	3.5
Nanofiltration	4.0	3.0	4.0
Reverse Osmosis	4.0	3.0	4.0
Alternate technology	2.0	0	2.0

( )

b. Filtration removal credit will be granted for filtration treatment provided the PWS is: ( )

i. Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; ( )

ii. The PWS is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; ( )

iii. Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; ( )

iv. Slow sand filters are operated at rates not to exceed one-tenth (0.1) gallons per minute per square foot or as approved by the Department; and ( )

v. Diatomaceous earth filters are operated at a rate not to exceed one point five (1.5) gallons per minute per square foot. ( )

02. Disinfection. ( )

a. Surface water sources or groundwater sources directly influenced by surface water must maintain a minimum of at least two-tenths (0.2) mg/l disinfectant residual in the treated water at peak hour demand before delivery to the first customer. ( )

b. The Department may allow a PWS to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the PWS demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. ( )

c. Each PWS which is required to provide filtration must provide disinfection treatment such that filtration plus disinfection provide at least 3-Log or ninety-nine and nine tenths percent (99.9%) inactivation/removal of Giardia lamblia cysts and at least 4-Log or ninety-nine and ninety-nine hundredths percent (99.99%) inactivation/removal of viruses as specified in 40 CFR 141.72 and Section 104, and at least 2-Log or ninety-nine percent (99%) removal of Cryptosporidium as required by 40 CFR Part 141, Subpart P or Subpart T. However, in all cases the disinfection portion of the treatment train must be designed to provide not less than five tenths (0.5) log Giardia

lamblia inactivation, irrespective of the Giardia lamblia removal credit awarded to the filtration portion of the treatment train. ( )

03. Analytical and Monitoring Requirements. ( )

a. Total inactivation ratio calculations: 40 CFR 141.74(b)(4)(i) and (ii) are incorporated by reference. ( )

b. Log removal credit for disinfection must be determined by multiplying the total inactivation ratio by three (3). ( )

c. Unfiltered Subpart H systems. 40 CFR 141.857(c) is incorporated by reference. ( )

d. Unfiltered PWSs must monitor as required in 40 CFR 141.74(b) upon notification by the Department that filtration treatment must be installed. ( )

e. During the period prior to filtration treatment installation, the Department may, at its discretion, reduce the turbidity monitoring frequency for any non-community system which demonstrates to the satisfaction of the Department: ( )

i. A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; ( )

ii. The water source is well protected; ( )

iii. E. coli MCL is not exceeded or a Level 1 or Level 2 Assessment has not been triggered in accordance with 40 CFR 141.859; and ( )

iv. No significant health risk is present. ( )

04. Reporting and Recordkeeping Requirements. ( )

a. As provided in 40 CFR 141.75(a) and Subsection 104.04, the Department may establish interim reporting requirements for PWSs notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a) and as referred to in Subsection 104.04. Until filtration treatment is installed, PWSs required to install filtration treatment must report as follows: ( )

i. The purveyor will immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: ( )

(1) The occurrence of a waterborne disease outbreak potentially attributable to that PWS; ( )

(2) Any turbidity measurement which exceeds five (5) NTU; and ( )

(3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. ( )

ii. The purveyor will report to the Department within ten (10) days after the end of each month the PWS serves water to the public the following monitoring information using a Department-approved form: ( )

(1) Turbidity monitoring information; and ( )

(2) Disinfectant residual concentrations entering the distribution system. ( )

iii. Personnel qualified under Subsection 104.01 will complete and sign the monthly report forms submitted to the Department as required in Subsection 104.04. ( )

b. In addition to the reporting requirements in 40 CFR 141.75(b) pertaining to PWSs with filtration treatment, each PWS which provides filtration treatment must report the level of Giardia lamblia and virus inactivation/removal achieved each day by filtration and disinfection. ( )

05. Recycle Provisions. ( )

a. The Department will evaluate recycling records kept by PWSs pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other inspections. ( )

b. The Department may require a PWS to modify recycling practices if it can be shown that these practices adversely affect the ability of the PWS to meet surface water treatment requirements. ( )

105. CONTROL OF LEAD AND COPPER.
40 CFR 141, Subpart I is incorporated by reference. ( )

106. USE OF NON-CENTRALIZED TREATMENT DEVICES.
40 CFR Part 141, Subpart J is incorporated by reference. ( )

01. Point of Use (POU) Treatment Devices. ( )

a. A PWS owner may use point of use (POU) treatment to comply with certain maximum contaminant levels (MCL) or treatment techniques when the following conditions are met: ( )

i. A program for long-term operation, maintenance, and monitoring of the POU treatment system is approved by the Department, pursuant to Subsection 106.02.c.; ( )

ii. The PWS owner or a vendor of POU treatment devices under contract with the PWS must own, control, and maintain the POU treatment system to ensure proper operation and maintenance and compliance with the MCL or treatment technique; ( )

iii. Each POU treatment device is equipped with a mechanical warning mechanism to ensure customers are automatically notified of operational problems; ( )

iv. Each POU treatment device must be certified by an accredited American National Standards Institute (ANSI) certification body to meet applicable ANSI/National Sanitation Foundation (NSF) Standards; and ( )

v. POU treatment devices will not be used to comply with an MCL or treatment technique requirement for a microbial contaminant or an indicator of a microbial contaminant. Community PWSs may not use POU treatment devices to comply with a nitrate or nitrite MCL. ( )

b. The Department will waive the plan and specification requirements of Section 504 relating to material modifications for the following systems only to the extent that the material modification is limited to the installation or use of a POU treatment device(s): ( )

i. Community PWSs serving two hundred (200) or fewer service connections; ( )

ii. Non-transient non-community PWSs; ( )

iii. Transient non-community PWSs; or ( )

iv. Community PWSs serving more than two hundred (200) service connections if approved by the Department through the waiver process outlined in Subsection 004.02. ( )

c. Prior to installation, the PWS owner must submit the following documentation for approval to the Department. ( )

i. Water system information: ( )

(1) PWS name and identification number; ( )

(2) Total number of service connections; ( )

(3) Demonstration that all POU treatment devices are owned, controlled, and maintained by the PWS owner or by a vendor of POU treatment devices under contract with the PWS owner; ( )

(4) Documentation that a customer at each service connection has agreed to installation and use of a POU treatment device and has granted access for installation, maintenance, and sampling; ( )

(5) A statement of recognition that failure to maintain compliance with the MCL, or the failure to operate and maintain compliance with a POU treatment system as approved by the Department, may necessitate installation of centralized treatment; and ( )

(6) Documentation that the PWS is current with certified operator requirements pursuant to Section 050. ( )

ii. POU device information: ( )

(1) Type of POU treatment device; ( )

(2) Manufacturer, model number, and manufacturer's specifications; ( )

(3) Contaminant to be treated and documentation that the POU is certified and is of sufficient design and capacity for removal of the contaminant; ( )

(4) Documentation that the PWS's water chemistry is compatible with the POU; ( )

(5) Type and function of the mechanical warning (performance indicator); ( )

(6) Certification verification for ANSI/NSF; ( )

(7) Documentation describing how other drinking water dispensing units, such as hot water dispensers and refrigerators, soda machines, water fountains, and other similar units will be provided with treated water and how the water will be transported to that unit with non-reactive piping or tubing. Non-transient non-community and transient non-community PWSs must demonstrate that the POU treatment devices are located in areas adequate to protect public health and in sufficient quantity to serve the system's users; ( )

(8) Installer qualifications; and ( )

(9) Proposed date for completing installation(s). ( )

iii. POU operation, maintenance, and sampling plan that includes documentation on how the PWS owner will: ( )

(1) Address any non-compliance with Subsection 106.02.c.i.(4); ( )

(2) Ensure real estate disclosures for the POU treatment systems; ( )

(3) Deliver ongoing education and outreach to customers, including renters, regarding POU treatment and health effects of the contaminant(s) of concern; ( )

(4) Address and perform on-going maintenance activities, including frequency of treatment media replacements and treatment device replacements, periodic verification that the mechanical warning device is functional, schedule of planned maintenance activities, a plan to address unscheduled maintenance problems, and a

plan and method of waste disposal; and ( )

(5) Collect samples from the location of all service connections and demonstrating that all POU treatment devices will be sampled for compliance with the treated contaminant(s) during every compliance period or other frequency designated by the Department. ( )

d. Within thirty (30) days of installing the approved POU treatment system, the PWS owner must: ( )

i. Notify the Department in writing that the POU treatment system was installed as approved by the Department; and ( )

ii. Submit samples from each POU treatment device to a certified laboratory for the contaminant(s) being treated to demonstrate initial compliance with the MCL. ( )

e. The PWS owner or operator must maintain records for a POU treatment system. Records must be submitted to the Department at a frequency and in a format specified by the Department. Records to maintain include: ( )

i. Requirements of Subsection 106.02.c.; ( )

ii. All sampling performed on the POU treatment devices; ( )

iii. Maintenance logs and schedules; ( )

iv. Log of installed units; and ( )

v. Contracts, lease agreements, or other legal documents with vendors and consumers. ( )

107. TREATMENT TECHNIQUES.
40 CFR 141, Subpart K, is incorporated by reference. ( )

108. DISINFECTION RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.
40 CFR Part 141, Subpart L is incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. ( )

109. – 110. (RESERVED)

1~~5~~11. CONSUMER CONFIDENCE REPORTS.
40 CFR Part 141, Subpart O is incorporated by reference. (7-1-24)

112. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING TEN THOUSAND OR MORE PEOPLE.
40 CFR Part 141, Subpart P is incorporated by reference. ( )

~~152. – 249~~113. (RESERVED)

114. GROUND WATER RULE.
40 CFR 141, Subpart S is incorporated by reference. ( )

01. Discontinuation of Treatment. PWSs that wish to discontinue four (4)-log virus treatment at a groundwater source must meet the following criteria. Groundwater sources on which treatment has been discontinued will be subject to the triggered source water monitoring requirements of 40 CFR 141, Subpart S. ( )

a. Demonstration that any known source of contamination has been removed. ( )

b. Demonstration that structural deficiencies of the well have been rehabilitated and no longer exist. ( )

c. Provide evidence that the well is drawing from a protected or confined aquifer. ( )

d. Submit results of one (1) year of monthly monitoring for a fecal indicator organism during which no positive results occurred. ( )

02. Chlorine Purging Prior to Triggered Source Sampling. 40 CFR 141.402(e) requires that groundwater source samples be collected at a location prior to any treatment. Pursuant to this requirement PWSs that add chlorine to a source, either in the well bore or near enough to the wellhead that chlorinated water may backflow into the well, must ensure that all chlorine residual has been purged prior to taking a triggered source water sample. This must be accomplished by measuring chlorine residual in the source water until a reading of zero (0) is obtained and be recorded in the space provided for chlorine residual on the sample submittal form. ( )

115. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING FEWER THAN TEN THOUSAND PEOPLE.
40 CFR 141, Subpart T is incorporated by reference. In accordance with 40 CFR 142.16(g)(1), the Department has authority to require the owner of a PWS to conduct a composite correction program, as defined in Section 003, for the purpose of identifying and correcting deficiencies in water treatment and distribution. Composite correction programs consist of a comprehensive performance evaluation (CPE) and comprehensive technical assistance (CTA). ( )

01. Comprehensive Performance Evaluation (CPE). The CPE is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance. It must emphasize approaches that can be implemented without significant capital improvements. The CPE assesses plant performance-based capabilities and associated administrative and operation and management practices. ( )

02. Comprehensive Technical Assistance (CTA). The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and long-term involvement to systematically train staff and administrators. ( )

116. INITIAL DISTRIBUTION SYSTEM EVALUATIONS.
40 CFR part 141, Subpart U is incorporated by reference. ( )

117. STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS.
40 CFR Part 141, Subpart V is incorporated by reference. ( )

118. ENHANCED TREATMENT FOR CRYPTOSPORIDIUM – LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE.
40 CFR Part 141, Subpart W, is incorporated by reference. ( )

01. Cryptosporidium Treatment Credit for Approved Watershed Control Program. The Department will award 0.5 (zero point five) logs cryptosporidium removal credit to systems that have a Department approved Watershed Control Program. Requirements for a watershed control program are set forth in 40 CFR 141, Subpart W. Guidance on how to develop a watershed control program and obtain Department approval is provided in "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002. ( )

02. Assessment of Significant Changes in the Watershed. As part of the sanitary survey process set forth in Section 200, the Department, or an agent approved by the Department, will assess significant changes in the watershed of a surface water system that occurred since the PWS conducted source water monitoring. If changes in the watershed have the potential to significantly increase contamination of the source water with cryptosporidium, the Department will consult with the PWS owner on follow-up actions that may be required under 40 CFR 141, Subpart W, including, but not limited to, source water monitoring or additional treatment requirements. "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002, provides a description of factors that will be considered by the Department when making an assessment of changes in the

watershed. These factors include, but are not limited to the following. ( )

a. New IPDES permits or changes in existing IPDES permits that involve increased loading of contaminants. ( )

b. Changes in land use patterns. ( )

c. Changes in agricultural cropping, chemical application, or irrigation practices. ( )

d. Changes in other non-point discharge source activities (such as grazing, manure application, commercial or residential development). ( )

e. Stream or riverbed modifications. ( )

f. IPDES permit violations at wastewater treatment plants or confined animal feedlot operations. ( )

g. Dramatic natural events such as floods, forest fires, earthquakes, and landslides that may transport or expose contaminants. ( )

h. Prolonged drought conditions that may warrant special preparatory measures to minimize impacts from waste accumulations that are washed into source waters when precipitation returns. ( )

i. Accidental or illegal waste discharges and spills. ( )

119. REVISED TOTAL COLIFORM RULE.
40 CFR part 141, Subpart Y is incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f) and (h). ( )

01. Level 1 and 2 Assessments. Level 1 and 2 assessments must be conducted consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the PWS and the size, type, and characteristics of the distribution system. ( )

02. Level 2 Assessments. The Department will schedule and conduct Level 2 assessments for an E.coli treatment technique trigger unless the Department approves another party to conduct the assessment as outlined in Subsection 119.03. A second or any additional triggered Level 2 Assessment within a rolling twelve-month period must be conducted by a Department approved third party even if the PWS owner has staff or management approved under Subsection 119.01.c. ( )

03. Approved Parties for Level 2 Assessments. The PWS may conduct a Level 2 assessment if the PWS has staff or management with the certification or qualifications outlined in this Subsection or if the PWS hires parties that meet the qualifications in this Subsection. The following parties are approved by the Department to conduct Level 2 assessments: ( )

a. The Department or persons contracted with the Department who are trained to conduct sanitary surveys; ( )

b. Currently licensed operators in good standing that are licensed through the Idaho Division of Occupational and Professional Licenses with a drinking water classification of Distribution I through IV or Treatment I through IV and that are licensed at least to the classification level of the PWS requiring the Level 2 assessment; or ( )

c. Licensed professional engineers licensed by the state of Idaho and qualified by education and experience in the specific technical fields involved in these rules. ( )

120. CONTROL OF PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS).
40 CFR 141, Subpart Z is incorporated by reference. ( )

121. – 199. (RESERVED)

~~**250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.**~~

~~**01. Maximum Contaminant Level Goals for Organic Contaminants**. 40 CFR 141.50 is incorporated by reference. (7-1-24)~~

~~**02. Maximum Contaminant Level Goals for Inorganic Contaminants**. 40 CFR 141.51 is incorporated by reference. (7-1-24)~~

~~**03. Maximum Contaminant Level Goals for Microbiological Contaminants**. 40 CFR 141.52 is incorporated by reference. (7-1-24)~~

~~**04. Maximum Contaminant Level Goals for Disinfection Byproducts**. 40 CFR 141.53 is incorporated by reference. (7-1-24)~~

~~**05. Maximum Residual Disinfectant Level Goals for Disinfectants**. 40 CFR 141.54 is incorporated by reference. (7-1-24)~~

~~**06. Maximum Contaminant Level Goals for Radionuclides**. 40 CFR 141.55 is incorporated by reference. (7-1-24)~~

~~**251. – 299. (RESERVED)**~~

~~**300. FILTRATION AND DISINFECTION.**~~

~~**01. General Requirements**. 40 CFR 141.70 is incorporated by reference. (7-1-24)~~

~~**02. Filtration**. 40 CFR 141.73 is incorporated by reference. (7-1-24)~~

~~**a.** The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise allowed the Department, the maximum log removal credit allowed for filtration is as follows:~~

Maximum Log Removal			
Filtration Type	Giardia lamblia	Viruses	Cryptosporidium
Conventional	2.5	2.0	2.5
Direct	2.0	1.0	2.0
Slow sand	2.0	2.0	2.0
Diatomaceous earth	2.0	1.0	2.0
Microfiltration	3.0	0.5	3.0
Ultrafiltration	3.5	2.0	3.5
Nanofiltration	4.0	3.0	4.0
Reverse Osmosis	4.0	3.0	4.0
Alternate technology	2.0	0	2.0

(7-1-24)

~~**b.** Filtration removal credit will be granted for filtration treatment provided the PWS is:~~ (7-1-24)

i. Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; and (7-1-24)

ii. The PWS is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (7-1-24)

iii. Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (7-1-24)

iv. Slow sand filters are operated at rates not to exceed one-tenth (0.1) gallons per minute per square foot or as approved by the Department; and (7-1-24)

v. Diatomaceous earth filters are operated at a rate not to exceed one point five (1.5) gallons per minute per square foot. (7-1-24)

03. Criteria for Avoiding Filtration. 40 CFR 141.71 is incorporated by reference. (7-1-24)

04. Disinfection. 40 CFR 141.72 is incorporated by reference. (7-1-24)

a. Surface water sources or groundwater sources directly influenced by surface water must maintain a minimum of at least two-tenths (0.2) mg/l disinfectant residual in the treated water at peak hour demand before delivery to the first customer. (7-1-24)

b. The Department may allow a PWS to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the PWS demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (7-1-24)

c. Each PWS which is required to provide filtration must provide disinfection treatment such that filtration plus disinfection provide at least 3-Log or ninety-nine and nine tenths percent (99.9%) inactivation/removal of Giardia lamblia cysts and at least 4-Log or ninety-nine and ninety-nine hundredths percent (99.99%) inactivation/removal of viruses as specified in 40 CFR 141.72 and Section 300, and at least 2-Log or ninety-nine percent (99%) removal of Cryptosporidium as required by 40 CFR Part 141, Subpart P or Subpart T. However, in all cases the disinfection portion of the treatment train must be designed to provide not less than five tenths (0.5) log Giardia lamblia inactivation, irrespective of the Giardia lamblia removal credit awarded to the filtration portion of the treatment train. (7-1-24)

05. Analytical and Monitoring Requirements. 40 CFR 141.74 is incorporated by reference. (7-1-24)

a. Total inactivation ratio calculations: 40 CFR 141.74(b)(4)(i) and (ii) are incorporated by reference. (7-1-24)

b. Log removal credit for disinfection must be determined by multiplying the total inactivation ratio by three (3). (7-1-24)

c. Unfiltered Subpart H systems. 40 CFR 141.857(c) is incorporated by reference. (7-1-24)

d. Unfiltered PWSs must monitor as required in 40 CFR 141.74(b) upon notification by the Department that filtration treatment must be installed. (7-1-24)

e. During the period prior to filtration treatment installation, the Department may, at its discretion, reduce the turbidity monitoring frequency for any non-community system which demonstrates to the satisfaction of the Department: (7-1-24)

i. A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (7-1-24)

ii. The water source is well protected; (7-1-24)

iii. E. coli MCL is not exceeded or a Level 1 or Level 2 Assessment has not been triggered in accordance with 40 CFR 141.859; and (7-1-24)

iv. No significant health risk is present. (7-1-24)

06. Reporting and Recordkeeping Requirements. 40 CFR 141.75 is incorporated by reference. (7-1-24)

a. As provided in 40 CFR 141.75(a) and Section 300, the Department may establish interim reporting requirements for PWSs notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a) and as referred to in Subsection 300.06. Until filtration treatment is installed, PWSs required to install filtration treatment must report as follows: (7-1-24)

i. The purveyor will immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (7-1-24)

(1) The occurrence of a waterborne disease outbreak potentially attributable to that PWS; (7-1-24)

(2) Any turbidity measurement which exceeds five (5) NTU; and (7-1-24)

(3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (7-1-24)

ii. The purveyor will report to the Department within ten (10) days after the end of each month the PWS serves water to the public the following monitoring information using a Department-approved form: (7-1-24)

(1) Turbidity monitoring information; and (7-1-24)

(2) Disinfectant residual concentrations entering the distribution system. (7-1-24)

iii. Personnel qualified under Subsection 300.01 will complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (7-1-24)

b. In addition to the reporting requirements in 40 CFR 141.75(b) pertaining to PWSs with filtration treatment, each PWS which provides filtration treatment must report the level of Giardia lamblia and virus inactivation/removal achieved each day by filtration and disinfection. (7-1-24)

07. Recycle Provisions. 40 CFR 141.76 is incorporated by reference. (7-1-24)

a. The Department will evaluate recycling records kept by PWSs pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other inspections. (7-1-24)

b. The Department may require a PWS to modify recycling practices if it can be shown that these practices adversely affect the ability of the PWS to meet surface water treatment requirements. (7-1-24)

301. ENHANCED FILTRATION AND DISINFECTION – SYSTEMS SERVING TEN THOUSAND OR MORE PEOPLE.

This Section incorporates, 40 CFR Part 141, Subpart P, known as the Interim Enhanced Surface Water Treatment Rule. (7-1-24)

01. General Requirements. 40 CFR 141.170 is incorporated by reference. (7-1-24)

~~**02. Criteria for Avoiding Filtration**. 40 CFR 141.171 is incorporated by reference. (7-1-24)~~

~~**03. Disinfection Profiling and Benchmarking**. 40 CFR 141.172 is incorporated by reference. (7-1-24)~~

~~**04. Filtration**. 40 CFR 141.173 is incorporated by reference. (7-1-24)~~

~~**05. Filtration Sampling Requirements**. 40 CFR 141.174 is incorporated by reference. (7-1-24)~~

~~30~~200. SANITARY SURVEYS.
The Department will conduct a sanitary survey of all PWSs. Sanitary surveys will include, but are not limited to, the following elements: source; treatment; distribution system; finished water storage; pump, pump facilities, and controls; monitoring and reporting and data verification; PWS management and operation; and operator compliance with state requirements. For those PWSs using groundwater, 40 CFR Part 141, Subpart S, is incorporated by reference. ~~(7-1-24)~~( )

01. Frequency. For non-community PWSs, a sanitary survey must be conducted every five (5) years. For community PWSs, a sanitary survey will be conducted every three (3) years, except as provided below. (7-1-24)

a. Community systems using surface water or groundwater under the direct influence of surface water that have been determined to have outstanding performance, according to criteria established by the Department, may have a sanitary survey conducted every five (5) years. (7-1-24)

b. Community systems using groundwater may have a sanitary survey conducted every five (5) years if the PWS provides at least a four (4)-log treatment of viruses (using inactivation, removal, or a Department-approved combination of 4-log inactivation and removal) before or at the first customer for all of its groundwater sources. (7-1-24)

c. Community systems using groundwater may have a sanitary survey conducted every five (5) years if they have an outstanding performance record, as determined by the Department and documented in previous sanitary surveys, and have no history of Revised Total Coliform Rule MCL or monitoring violations under ~~Subsection 100.01~~ Section 101 since the last sanitary survey. ~~(7-1-24)~~( )

02. Report. The Department will provided a report describing the results of the sanitary survey to the PWS. As part of the sanitary survey report or as an independent action, the Department will provide written notice to the PWS describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. (7-1-24)

03. Significant Deficiencies. For each of the eight (8) elements of a sanitary survey of a groundwater system, the Department will consider the following deficiencies significant in all cases for the purposes of the notice required in Subsection ~~303~~200.02. Decisions about the significance of other deficiencies identified during the sanitary survey will be at the Department's discretion, as indicated in the Department's sanitary survey protocol. ~~(7-1-24)~~( )

a. Source: Lack of or improper sanitary well cap as specified in Subsection 511.06.b. (7-1-24)

b. Treatment: (7-1-24)

i. Chemical addition lacks emergency shut-off as specified in Subsection 531.02.b.ii. (7-1-24)

ii. Chemical addition is not flow proportioned where the rate of flow or chemical demand is not reasonably constant, as specified in Subsection 531.02.b.ii. (7-1-24)

c. Distribution system: A minimum system pressure of twenty (20) psi is not maintained throughout the distribution system as specified in Subsection 552.01.b. (7-1-24)

d. Finished water storage: Roof leaking, as specified in Subsections 544.09 and 544.09.c. (7-1-24)

e. Pumps, pump facilities, and controls: A pump house must be protected from contamination and unauthorized entry, as specified in Subsection 541.01. (7-1-24)

f. Monitoring, reporting, and data verification: Repeated failure to collect the required number and type of Revised Total Coliform Rule samples during the most recent two (2) year period, as specified in ~~Subsection 100.01~~ Section 119. ~~(7-1-24)~~( )

g. PWS management and operation: History of frequent depressurization in the distribution system in violation of Subsection 552.01. (7-1-24)

h. Operator compliance with state licensing requirements: The PWS does not have a properly licensed responsible charge operator as required in Subsection ~~554~~050.02. ~~(7-1-24)~~( )

04. Response Required. After notification from the Department of significant deficiencies, the owner of a PWS must respond in writing, describing how and on what schedule the PWS will address all significant deficiencies, not later than forty-five (45) days for PWSs using surface water or groundwater under the direct influence of surface water or thirty (30) days for PWSs only using groundwater. (7-1-24)

05. Consultation with the Department. PWS owners must consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey, unless such corrective actions are specified in detail by the Department in its written notification under Subsection ~~302~~200.02. ~~(7-1-24)~~( )

06. Violation. Failure to address significant deficiencies identified in a sanitary survey is a violation of these rules. (7-1-24)

~~303~~201. – 499. (RESERVED)

~~**304. COMPOSITE CORRECTION PROGRAM (CCP).**~~
~~40 CFR 141.563 is incorporated by reference. In accordance with 40 CFR 142.16(g)(1), the Department has authority to require the owner of a PWC to conduct a composite correction program, as defined in Section 003, for the purpose of identifying and correcting deficiencies in water treatment and distribution. Composite Correction Programs consist of a Comprehensive Performance Evaluation (CPE) and Comprehensive Technical Assistance (CTA).~~ ~~(7-1-24)~~

~~**01. Comprehensive Performance Evaluation (CPE)**. The CPE is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance. It must emphasize approaches that can be implemented without significant capital improvements. The CPE assesses plant performance based capabilities and associated administrative and operation and management practices.~~ ~~(7-1-24)~~

~~**02. Comprehensive Technical Assistance (CTA)**. The CTA consists of follow up to the CPE results, implementation of process control priority setting techniques, and long-term involvement to systematically train staff and administrators.~~ ~~(7-1-24)~~

~~**305. COLIFORM TREATMENT TECHNIQUE TRIGGERS AND ASSESSMENT REQUIREMENTS FOR PROTECTION AGAINST POTENTIAL FECAL CONTAMINATION.**~~
~~40 CFR 141.859, excluding 40 CFR 141.859(a)(2)(iii), is incorporated by reference.~~ ~~(7-1-24)~~

~~**01. Requirements For Assessments**. 40 CFR 141.859(b) is incorporated by reference.~~ ~~(7-1-24)~~

~~**a.** Level 1 and 2 assessments must be conducted consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the PWS and the size, type, and characteristics of the distribution system.~~ ~~(7-1-24)~~

~~**b.** Level 1 Assessment. 40 CFR 141.859(b)(3) is incorporated by reference.~~ ~~(7-1-24)~~

~~**c.** Level 2 Assessment. 40 CFR 141.859(b)(4) is incorporated by reference.~~ ~~(7-1-24)~~

i. The Department will schedule and conduct Level 2 assessments for an E.coli treatment technique trigger in unless the Department approves another party to conduct the assessment as outlined in Subsection 305.02. (7-1-24)

ii. A second or any additional triggered Level 2 Assessment within a rolling twelve-month period must be conducted by a Department approved third party even if the PWS owner has staff or management approved under Subsection 305.02. (7-1-24)

02. Approved Parties for Level 2 Assessments. The PWS may conduct a Level 2 assessment if the PWS has staff or management with the certification or qualifications outlined in this Subsection or if the PWS hires parties that meet the qualifications in this Subsection. The following parties are approved by the Department to conduct Level 2 assessments: (7-1-24)

a. The Department or persons contracted with the Department who are trained to conduct sanitary surveys; (7-1-24)

b. Currently licensed operators in good standing that are licensed through the Idaho Division of Occupational and Professional Licenses with a drinking water classification of Distribution I through IV or Treatment I through IV and that are licensed at least to the classification level of the PWS requiring the Level 2 assessment; or (7-1-24)

c. Licensed professional engineers licensed by the state of Idaho and qualified by education and experience in the specific technical fields involved in these rules. (7-1-24)

306. -- 309. (RESERVED)

310. ENHANCED FILTRATION AND DISINFECTION -- SYSTEMS SERVING FEWER THAN TEN THOUSAND PEOPLE.
40 CFR 141, Subpart T, is incorporated by reference. (7-1-24)

311. ENHANCED TREATMENT FOR CRYPTOSPORIDIUM -- LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE.
40 CFR Part 141, Subpart W, is incorporated by reference. (7-1-24)

01. Cryptosporidium Treatment Credit for Approved Watershed Control Program. The Department will award 0.5 (zero point five) logs cryptosporidium removal credit to systems that have a Department approved Watershed Control Program. Requirements for a watershed control program are set forth in 40 CFR 141, Subpart W. Guidance on how to develop a watershed control program and obtain Department approval is provided in "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002. (7-1-24)

02. Assessment of Significant Changes in the Watershed. As part of the sanitary survey process set forth in Section 302, the Department, or an agent approved by the Department, will assess significant changes in the watershed of a surface water system that occurred since the PWS conducted source water monitoring. If changes in the watershed have the potential to significantly increase contamination of the source water with cryptosporidium, the Department will consult with the PWS owner on follow-up actions that may be required under 40 CFR 141, Subpart W, including, but not limited to, source water monitoring or additional treatment requirements. "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002, provides a description of factors that will be considered by the Department when making an assessment of changes in the watershed. These factors include, but are not limited to the following: (7-1-24)

a. New IPDES permits or changes in existing IPDES permits that involve increased loading of contaminants. (7-1-24)

b. Changes in land use patterns. (7-1-24)

~~**c.** Changes in agricultural cropping, chemical application, or irrigation practices. (7-1-24)~~

~~**d.** Changes in other non-point discharge source activities (such as grazing, manure application, commercial or residential development). (7-1-24)~~

~~**e.** Stream or riverbed modifications. (7-1-24)~~

~~**f.** IPDES permit violations at wastewater treatment plants or confined animal feedlot operations. (7-1-24)~~

~~**g.** Dramatic natural events such as floods, forest fires, earthquakes, and landslides that may transport or expose contaminants. (7-1-24)~~

~~**h.** Prolonged drought conditions that may warrant special preparatory measures to minimize impacts from waste accumulations that are washed into source waters when precipitation returns. (7-1-24)~~

~~**i.** Accidental or illegal waste discharges and spills. (7-1-24)~~

~~**312. -- 319. (RESERVED)**~~

~~**320. DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.**~~
~~This Section incorporates 40 CFR Part 141, Subpart L, of the National Primary Drinking Water Regulations, known as the Disinfectants and Disinfection Byproducts Rule. (7-1-24)~~

~~**01. General Requirements**. 40 CFR 141.130 is incorporated by reference. (7-1-24)~~

~~**02. Analytical Requirements**. 40 CFR 141.131 is incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. (7-1-24)~~

~~**03. Monitoring Requirements**. 40 CFR 141.132 is incorporated by reference. (7-1-24)~~

~~**04. Compliance Requirements**. 40 CFR 141.133 is incorporated by reference. (7-1-24)~~

~~**05. Treatment Techniques for Control of Disinfection Byproduct (DBP) Precursors**. 40 CFR 141.135 is incorporated by reference. (7-1-24)~~

~~**321. INITIAL DISTRIBUTION SYSTEM EVALUATIONS.**~~
~~40 CFR Part 141, Subpart U, is incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to PWS owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart U. (7-1-24)~~

~~**322. STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS.**~~
~~40 CFR Part 141, Subpart V, is incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR Part 141, Subpart V. (7-1-24)~~

~~**323. GROUND WATER RULE.**~~
~~40 CFR 141, Subpart S is incorporated by reference. "Implementation Guidance for the Drinking Water Program – Ground Water Rule," as referenced in Section 002, provides assistance to PWS owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart S. (7-1-24)~~

~~**01. Discontinuation of Treatment**. PWSs that wish to discontinue four (4)-log virus treatment at a groundwater source must meet the following criteria. Groundwater sources on which treatment has been discontinued will be subject to the triggered source water monitoring requirements of 40 CFR 141, Subpart S. (7-1-24)~~

~~**a.** Demonstration that any known source of contamination has been removed.~~ ~~(7-1-24)~~

~~**b.** Demonstration that structural deficiencies of the well have been rehabilitated and no longer exist.~~ ~~(7-1-24)~~

~~**c.** Provide evidence that the well is drawing from a protected or confined aquifer.~~ ~~(7-1-24)~~

~~**d.** Submit results of one (1) year of monthly monitoring for a fecal indicator organism during which no positive results occurred.~~ ~~(7-1-24)~~

~~**02. Chlorine Purging Prior to Triggered Source Sampling**. 40 CFR 141.402(e) requires that groundwater source samples be collected at a location prior to any treatment. Pursuant to this requirement PWSs that add chlorine to a source, either in the well bore or near enough to the wellhead that chlorinated water may backflow into the well, must ensure that all chlorine residual has been purged prior to taking a triggered source water sample. This must be accomplished by measuring chlorine residual in the source water until a reading of zero is obtained and be recorded in the space provided for chlorine residual on the sample submittal form.~~ ~~(7-1-24)~~

~~**324. – 349. (RESERVED)**~~

~~**350. CONTROL OF LEAD AND COPPER.**~~
~~40 CFR 141 Subpart I is incorporated by reference.~~ ~~(7-1-24)~~

~~**351. CONTROL OF PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS).**~~
~~40 CFR 141 Subpart Z is incorporated by reference.~~ ~~(7-1-25)~~

~~**352. – 399. (RESERVED)**~~

~~**400. SECONDARY MCLS.**~~
~~40 CFR 143, Subpart A, is incorporated by reference.~~ ~~(7-1-24)~~

~~**401. – 449. (RESERVED)**~~

(BREAK IN CONTINUITY OF SECTIONS)

510. SITING AND CONSTRUCTION OF WELLS.
Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a PWS served by one (1) or more wells must ensure that the following requirements are met: (7-1-24)

01. Site Approval. Prior to drilling, the site of a PWS well must be approved in writing by the Department. A well site evaluation report must be submitted prior to or concurrent with the PER for the well. The well site evaluation must take into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (7-1-24)

a. An evaluation of the quality of anticipated groundwater. (7-1-24)

b. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (7-1-24)

c. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (7-1-24)

d. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process.

(7-1-24)

e. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (7-1-24)

f. Description of potential sources of contamination including, but not limited to, sewers and sewage treatment/disposal facilities, highways, railroads, landfills, outcroppings of consolidated water-bearing formations, chemical facilities, waste disposal wells, and agricultural uses within five hundred (500) feet of the well site.(7-1-24)

02. Location. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. Each well must be staked by the design engineer or licensed professional geologist prior to drilling and meet the following minimum distances:

Minimum Distances from a Public Water System Well	
Frost free hydrant	5 feet
Property line	50 feet
Gravity wastewater line	50 feet
Any potential source of contamination	50 feet
Pressure wastewater line	100 feet
Class A Municipal Reclaimed Wastewater Pressure distribution line	50 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Drainfield - standard subsurface disposal module	100 feet
Absorption module - large soil absorption system	150 - 300 feet, see IDAPA 58.01.03
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet
Storm water facilities disposing storm water originating off the well lot	50 feet
Municipal or industrial wastewater treatment plant	500 feet
Reclamation and reuse of municipal and industrial wastewater sites	See IDAPA 58.01.17
Biosolids application site	1,000 feet

(7-1-24)

03. Construction Standards. In addition to meeting the requirements of these rules, all wells must be constructed in accordance with IDAPA 37.03.09, "Well Construction Standards Rules," and related rules and laws administered by the Idaho Department of Water Resources. All wells must comply with the drilling permit requirements of Section 42-235, Idaho Code. (7-1-24)

a. Casing for steel pipe must meet the following requirements:

STEEL PIPE					
	DIAMETER (inches)		THICKNESS (inches)	WEIGHT PER FOOT (pounds)	
SIZE	External	Internal		Plain Ends (calculated)	With Threads and Couplings (nominal)
6 (id)	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (od)	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.500	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

* id = inside diameter
* od = outside diameter (7-1-24)

b. The use of plastic well casing for PWS wells may be considered on a case-by-case basis. Plastic casing must meet or exceed ASTM Standard F480, current edition, and ANSI/NSF Standard 61. Plastic casing must also meet the following requirements: (7-1-24)

i. Have a minimum wall thickness equivalent to standard dimension ratio 21. However, diameters of 8 inches or greater or deep wells may require greater thickness to meet collapse strength requirements; (7-1-24)

ii. Must not be used at sites where permeation by hydrocarbons or degradation may occur; (7-1-24)

iii. Must be assembled using coupling or solvent welded joints. All coupling and solvents must meet ANSI/NSF Standard 14, ASTM F480, or similar requirements; and (7-1-24)

iv. Must not be driven. (7-1-24)

c. PWS wells must have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: (7-1-24)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (7-1-24)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (7-1-24)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (7-1-24)

d. Specifications must include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. (7-1-24)

e. Geological data must be collected at each pronounced change in formation and recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. (7-1-25)

f. The owner of each well must retain all records pertaining to each well until the well has been properly abandoned. (7-1-24)

g. Wells with intake screens must: (7-1-24)

i. Be constructed of materials resistant to damage by chemical action of groundwater or cleaning operations. (7-1-24)

ii. Have openings based on sieve analysis of formation, of gravel pack materials, or both. (7-1-24)

iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point one (0.1) feet per second, or as otherwise approved by the Department. (7-1-24)

iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it must be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. (7-1-24)

h. Permanent well casing must be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.b., or by the Rules of the Idaho Department of Water Resources, whichever is greater. All casing identified in plans and specifications as temporary casing must be removed prior to well completion. (7-1-24)

i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, must be used for one and one-half (1 ½) inch annular space. Additives may be used to increase fluidity and are subject to approval by the Department and the Idaho Department of Water Resources on a case-by-case basis. (7-1-24)

ii. Bentonite grout must have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout must not contain weighting agents to increase solids content and not be used above the water table. All bentonite grout must be installed by positive displacement from the bottom up through a tremmie or float shoe. (7-1-25)

iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing will be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite must be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips

must be of sufficient size to accommodate proper placement for the existing subsurface conditions. (7-1-24)

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet will require an annulus of at least three (3) inches on all sides of the casing, or as approved by the Department and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. (7-1-24)

v. All chip bentonite seals installed through water must only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe must be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips must be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water must be: (7-1-24)

(1) Installed in accordance with manufacturer's specifications; or (7-1-24)

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or (7-1-24)

(3) Installed using coated pellets to retard hydration if approved by the Department and the Idaho Department of Water Resources. (7-1-24)

vi. Concrete may be approved on a case-by-case basis by the Department and the Idaho Department of Water Resources. Upon such approval, the approved method must use a six (6) sack minus one-half (1/2) inch Portland cement concrete and must be installed by positive displacement from the bottom up through a tremmie pipe. (7-1-24)

04. Disinfection. All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Department of Water Resources. This applies to new well construction and repair of existing wells. (7-1-24)

05. Well Completion Report. Upon completion of a well, and prior to its use as a drinking water source, the following information and data must be submitted by the PWS to the Department. The well completion report must be submitted to the Department prior to or concurrent with the submittal of the preliminary engineering report for well house construction/modification. The well completion report must bear the imprint of an Idaho licensed professional engineer's or an Idaho licensed professional geologist's seal that is both signed and dated by the engineer or geologist: (7-1-24)

a. A copy of all well logs; (7-1-24)

b. Results of test pumping, as specified in Subsection 510.06; (7-1-24)

c. As constructed plans showing at least the following: (7-1-24)

i. Annular seal, including depth and sealant material used and method of application; (7-1-24)

ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (7-1-24)

iii. Recommended pump location. (7-1-24)

d. Other information as may be specified by the Department. (7-1-24)

e. Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsections 510.05.e.i. through 510.05.e.iii. (7-1-24)

i. Community systems must submit results of analysis for total coliform, inorganic and organic chemical contaminants, radionuclide contaminants, and Per- and Polyfluoroalkyl Substances (PFAS) contaminants

set forth in ~~Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, 100.06, and 100.14,~~ Sections 100 and 101 unless analysis is waived pursuant to ~~Subsection 100.07~~ Section 101. ~~(7-1-25)~~( )

ii. Non-transient Non-community systems must submit results of analysis for total coliform, inorganic and organic chemical contaminants, and Per- and Polyfluoroalkyl Substances (PFAS) contaminants listed in ~~Subsections 050.01, 050.02, 100.01, 100.03, 100.04, and 100.14~~ Sections 100 and 101 unless analysis is waived pursuant to ~~Subsection 100.07~~ Section 101. ~~(7-1-25)~~( )

iii. Transient Non-community systems must submit results of a total coliform, nitrite, and nitrate analysis listed in ~~Subsections 050.01, 100.01 and 100.03~~ Sections 100 and 101. ~~(7-1-24)~~( )

06. Test Pumping. Upon completion of a groundwater source, test pumping must be conducted in accordance with the following procedures to meet the specified requirements: (7-1-24)

a. The well must be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the PWS must be re-evaluated and submitted to the Department for approval. (7-1-24)

b. Upon completion of well development, the well must be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well may not be more than five (5) parts per million. Sand production must be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well must be screened gravel packed, or re-developed. (7-1-24)

c. The following data must be provided: (7-1-24)

i. Static water level and stabilized drawdown; (7-1-24)

ii. Well yield in gallons per minute and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (7-1-25)

iii. Water level in the well recorded at regular intervals during pumping; (7-1-24)

iv. Profile of water level recovery from the pumping level projected to the original static water level. (7-1-24)

v. Depth at which the test pump was positioned in the well; (7-1-24)

vi. Test pump capacity and head characteristics; (7-1-24)

vii. Sand production data. (7-1-24)

viii. Results of analysis based on the drawdown and recovery test pertaining to aquifer properties, long term yield, and boundary conditions affecting drawdown. (7-1-24)

d. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine PWS operations. (7-1-24)

e. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its

discretion, may require additional site-specific investigations that include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer yield is sufficient to meet the long-term water requirements of the project. (7-1-24)

07. Conversion of Non-Public Water System Wells for Public Water System Use. Any existing well constructed for use other than as a PWS source may be considered for use as a PWS source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health, and that both the quantity and quality of water produced by the well meet PWS standards set forth in these rules. (7-1-24)

08. Monitoring Wells. If monitoring (observation) wells are used and are intended to remain in service after completion of the water supply well, the observation wells must be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials in accordance with the "Well Construction Standard Rules," IDAPA 37.03.09. (7-1-24)

09. Well Abandonment. Well decommissioning (abandonment) must be performed in accordance with Department of Water Resources requirements set forth in IDAPA 37.03.09, "Well Construction Standard Rules. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

518. ADDITIONAL DESIGN CRITERIA FOR SURFACE SOURCES.
Performance criteria for surface water treatment facilities are set forth in Sections ~~300~~104, ~~301~~112, and ~~310~~115. Surface water treatment systems must comply with applicable general design requirements in Section 503. In addition, the following design requirements apply specifically to surface water treatment facilities: ~~(7-1-24)~~( )

01. Engineering Design Requirements. The PWS must ensure that filtration and disinfection facilities for surface water or groundwater under the direct influence of surface water are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. The design of the water treatment plant must consider the worst raw water quality conditions that are likely to occur during the life of the facility. (7-1-24)

02. Removal of Pathogens. Filtration facilities (excluding disinfection) must be designed, constructed and operated to achieve at least two (2) log removal of Giardia lamblia cysts, two (2) log removal of Cryptosporidium oocysts, and one (1) log removal of viruses, except as allowed under Subsection 518.09.b. (7-1-24)

03. Disinfection. Disinfection facilities must be designed, constructed and operated so as to achieve at least point five zero (0.50) log inactivation of Giardia lamblia cysts; and (7-1-24)

a. Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (7-1-24)

b. Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (7-1-24)

c. Four (4) log inactivation of viruses if using alternate filtration technology. (7-1-24)

d. Four (4) log inactivation of viruses if filtration treatment is not used. (7-1-24)

04. Enhanced Disinfection. Higher levels of disinfection than specified under Subsection 518.03 may be required by the Department to provide adequate protection against Giardia lamblia and viruses. (7-1-24)

05. Filter to Waste. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste

unless the PWS demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (7-1-24)

06. Continuous Turbidity Monitoring. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter unit. (7-1-24)

07. Continuous Monitoring of Disinfectant. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the PWS serves fewer than three thousand three hundred (3,300) people. (7-1-24)

08. Continuous Operation Required. Diatomaceous earth filtration facilities must include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (7-1-24)

09. Acceptable Technology. The purveyor must select a filtration technology acceptable to the Department. (7-1-24)

a. Conventional, direct, slow sand, diatomaceous earth, and membrane filtration technologies are generally acceptable to the Department on a case-by-case basis. (7-1-24)

b. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (7-1-24)

i. That the filtration technology: (7-1-24)

(1) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (7-1-24)

(2) Removes at least ninety-nine percent (99%) (two (2) logs) of Cryptosporidium oocysts or surrogate particles and removes or inactivates at least ninety-nine percent (99%) (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. (7-1-24)

ii. Based on field studies or other means acceptable to the Department, it must be demonstrated that the filtration technology has the following capabilities: (7-1-24)

(1) In combination with disinfection treatment, consistently achieves at least ninety-nine percent (99%) (two (2) logs) removal of Cryptosporidium oocysts or surrogate particles and at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (7-1-24)

(2) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (7-1-24)

10. Pilot Studies. The PWS must conduct pilot studies in accordance with the following requirements and in accordance with Subsection 501.19 for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (7-1-24)

a. The PWS must obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (7-1-24)

b. The design and operation of the pilot study must be overseen by an Idaho licensed professional engineer. (7-1-24)

c. The PWS’s pilot study plan must identify at a minimum: (7-1-24)

i. The objectives of the pilot study; (7-1-24)

ii. Pilot filter design; (7-1-24)

iii. Water quality and operational parameters to monitor; (7-1-24)

iv. Amount of data to collect; and (7-1-24)

v. Qualifications of the pilot plant operator. (7-1-24)

d. The PWS must ensure that the pilot study is: (7-1-24)

i. Conducted to simulate conditions of the proposed full-scale design; (7-1-24)

ii. Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (7-1-24)

iii. Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (7-1-24)

iv. Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (7-1-24)

11. Redundant Disinfection. Surface water systems constructed after July 1, 1985, are required to install redundant disinfection components or maintain a backup unit on site as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. Design requirements regarding pressure analysis are found in Subsection 542.13. (7-1-24)

a. The minimum capacity of a PWS must be at least eight hundred (800) gallons per day per residence. (7-1-24)

i. The minimum capacity of eight hundred (800) gallons per day is the design maximum day demand rate exclusive of irrigation and fire flow requirements. (7-1-24)

ii. The minimum capacity of eight hundred (800) gallons per day is only acceptable if the PWS has equalization storage of finished water in sufficient quantity to compensate for the difference between a PWS's maximum pumping capacity and peak hour demand. (7-1-24)

iii. The design capacity of a PWS for material modifications may be less than eight hundred (800) gallons per day if the PWS owner provides information that demonstrates to the Department's satisfaction the maximum day demand for the PWS, exclusive of irrigation and fire flows, is less than eight hundred (800) gallons per day per residence. (7-1-24)

b. All PWS owners must meet the following pressure requirements: (7-1-24)

i. Be capable of providing sufficient water during maximum day demand conditions, including fire flow where provided, to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. (7-1-24)

ii. If an initial investigation by the water supplier fails to discover the causes of inadequate or excessive pressure, the Department may require the water supplier to conduct a local pressure monitoring study to

diagnose and correct pressure problems. Compliance with these requirements by PWSs that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured must be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. (7-1-24)

iii. Copies of pressure monitoring study reports required under Subsection 552.01.b.iii. detailing study results and any resulting corrective actions planned or performed by the PWS owner must be submitted to the Department in accordance with these rules. (7-1-24)

iv. The following PWSs or service areas of PWSs must maintain a minimum pressure of forty (40) psi throughout the distribution system, during peak hour demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. (7-1-24)

(1) Any PWS constructed or substantially modified after July 1, 1985. (7-1-24)

(2) Any new service areas. (7-1-24)

(3) Any PWS that is undergoing material modification where it is feasible to meet the pressure requirements as part of the material modification. (7-1-24)

v. Any newly constructed PWSs, or portions of existing systems that are materially modified after July 1, 2024, must keep static pressure within the distribution system below eighty (80) psi. Pressures above eighty (80) psi must be controlled by pressure reducing valve stations installed in the distribution main. In areas where failure of installed pressure reducing valve stations result in extremely high pressure, pressure relief valves may be required. The Department may approve the use of pressure reducing devices at individual service connections on a case-by-case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient PWS operation. If PWS modification will cause pressure to routinely exceed eighty (80) psi, or if a check valve or an individual pressure reducing device is added to the service line, the PWS owner must notify affected customers. Notification may include reasons for the elevated pressure, problems or damage that elevated pressure can inflict on appliances or plumbing systems, and suggested procedures or mitigation efforts affected property owners may initiate to minimize problems or damage. (7-1-24)

vi. The Department may allow the installation of booster pump systems at individual service connections on a case-by-case basis. However, such an installation may only occur with the full knowledge and agreement of the PWS owner, including assurance by the PWS that the individual booster pump will cause no adverse effects on PWS operation. (7-1-24)

vii. For elevated storage tanks, pressure calculations during peak hour demand are based on the lowest water level after both operational storage and equalization storage have been exhausted. Pressure calculations during fire flow demands are based on the lowest water level after operational storage, equalization storage, and fire suppression storage have been exhausted. (7-1-24)

viii. For hydropneumatic tanks, pressure calculations are based on the lowest pressure of the pressure cycle and this requirement must be noted in the operation and maintenance manual. (7-1-24)

c. Any PWS designed to provide fire flows must ensure that such flows are compatible with the water demand of existing and planned fire-fighting equipment and fire fighting practices in the area served by the PWS. (7-1-24)

d. Irrigation Flows. (7-1-24)

i. Any PWS constructed after November 1, 1977, must be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which includes all acreage that the PWS is designed to irrigate. (7-1-24)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. (7-1-24)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. (7-1-24)

ii. The Department may modify the requirement of Subsection 552.01.d.i. if: (7-1-24)

(1) A separate irrigation system is provided; or (7-1-24)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the PWS is designed to accommodate a regulated rate of irrigation flow. The Department may require the PWS to submit a legal opinion addressing the enforceability of such police powers. (7-1-24)

iii. If a separate non-potable irrigation system is provided for the consumers, all mains, hydrants and appurtenances must be easily identified as non-potable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (7-1-24)

02. Groundwater. (7-1-24)

a. PWSs supplied by groundwater, must treat water within the PWS by disinfection if the groundwater source is not protected from contamination. (7-1-24)

b. The Department may require disinfection for any existing PWS supplied by groundwater if the PWS has repeated E.coli MCL exceedances, and if the PWS does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (7-1-24)

i. Location of possible sources of contamination; (7-1-24)

ii. Size of the well lot; (7-1-24)

iii. Depth of the source of water; (7-1-24)

iv. Bacteriological quality of the aquifer; (7-1-24)

v. Geological characteristics of the area; and (7-1-24)

vi. Adequacy of development of the source. (7-1-24)

03. Operating Criteria. The operating criteria for PWSs that provide filtration are as follows: (7-1-24)

a. A project specific operation and maintenance manual must be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. For the operations plan in the operation and maintenance manual, additional guidance for several types of filtration systems can be found in the Department's SWTR Compliance Guidance referenced in Subsection 002.02. (7-1-24)

b. The PWS must conduct monitoring specified by the Department before serving water to the public in order to protect the health of consumers served by the PWS. (7-1-24)

c. New treatment facilities must be operated in accordance with Subsection 552.03.a., and the PWS must conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the PWS. (7-1-24)

04. Disinfection. PWSs that regularly disinfect their water using chlorine are subject to the provisions of Section ~~320~~108. PWSs using surface water or groundwater under the direct influence of surface water, are subject to the disinfection requirements of Sections ~~300~~104 and 518. PWSs using chlorine, ozone, chlorine dioxide, or other disinfecting agents for the purposes of disinfection must meet the facility and design standards of Sections 530 and 531. PWSs using ultraviolet light for the purposes of disinfection must meet the facility and design standards of

Section 529. ~~(7-1-24)~~( )

a. PWSs using only ground water that add a disinfectant for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: (7-1-24)

i. The PWS must demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%)) inactivation/removal of viruses. The required effective contact time must be approved by the Department. This condition must be attainable even when the design capacity coincides with anticipated maximum disinfectant demands. (7-1-24)

ii. A detectable disinfectant residual must be maintained throughout the distribution system. PWSs disinfecting through ultraviolet light will need to maintain a supplemental disinfectant capable of maintaining a detectable disinfectant residual. (7-1-24)

iii. Analysis for disinfectant residual must be conducted at a location at or prior to the first service connection at least daily and records of these analyses are to be kept by the supplier of water for at least one (1) year. A report of all daily chlorine residual measurements for each calendar month must be submitted to the Department no later than the tenth day of the following month. The frequency of measuring disinfectant residuals must be sufficient to detect variations in demand or changes in water flow. (7-1-24)

iv. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.04.a.i. (7-1-24)

b. PWSs using only groundwater that add disinfectant for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to analysis for disinfectant residual made at a frequency that is sufficient to detect variations in demand or changes in water flow. (7-1-24)

c. PWSs using only groundwater that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.04.b.ii. also apply if the PWS maintains a chlorine residual in the distribution system. (7-1-24)

05. Fluoridation. (7-1-24)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, are acceptable. Use of other chemicals must be specifically approved by the Department.(7-1-24)

b. Fluoride compounds are to be stored in covered or unopened shipping containers. (7-1-24)

c. Provisions must be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels are to be disposed of in a manner that will minimize exposure to fluoride dusts. (7-1-24)

d. Daily records of flow and amounts of fluoride added must be kept. An analysis for fluoride in finished water must be made at least weekly. Records of these analyses are to be kept by the supplier of water for five (5) years. (7-1-24)

06. Cross Connection Control Program - Community Water Systems. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the PWS against contamination and pollution from cross connections through premises isolation, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. Pursuant to Section 543, all suppliers of water for community PWSs must implement a cross connection control program to prevent the entrance to the PWS of materials known to be toxic or hazardous. The water purveyor is responsible to enforce the PWS's cross connection control program. The program will at a minimum include: (7-1-24)

a. An inspection program to locate cross connections and determine required suitable protection. For

new connections, PWS owners must verify suitable protection was installed prior to providing water service. (7-1-24)

b. Required installation and operation of adequate backflow prevention assemblies. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water must be selected from the Uniform Plumbing Code, the AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The assemblies must meet the requirements of Section 543 and comply with local ordinances. (7-1-24)

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing must be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Foundation Manual of Cross-Connection Control referenced in Subsection 002.02. (7-1-24)

d. Discontinuance of service to any structure, facility, or premises where suitable backflow protection has not been provided for a cross connection. (7-1-24)

e. Assemblies that cannot pass annual tests or those found to be defective are to be repaired, replaced, or isolated within ten (10) business days. If the failed assembly cannot be repaired, replaced, or isolated within ten (10) business days, water service to the failed assembly must be discontinued. (7-1-24)

07. Cross Connection Control - Non-Community Water Systems. All suppliers of water for non-community water systems must ensure that cross connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies must be inspected and tested annually for functionality by an Idaho licensed tester, as specified in Subsections 552.06.c. and 552.06.e. (7-1-24)

08. Start-up Procedures for Seasonal Systems ~~Subject To Subsections 100.01.a., c., and d~~. ~~(7-1-24)~~( )

a. All seasonal PWS owners must demonstrate completion of a Department approved start-up procedure, including start-up sampling, prior to serving water to the public. The PWS owner must submit information on a Department provided or approved form that includes a statement certifying that the PWS owner or operator followed proper start-up procedures. The form must be submitted to the Department within 30 (thirty) days following the PWS's start-up date. Start-up sampling must include total coliform samples submitted to a certified laboratory demonstrating the absence of total coliform within thirty (30) days prior to serving water to the public. (7-1-24)

b. The Department may exempt any seasonal PWS from Subsection 552.08.a. if the entire distribution system remains pressurized during the entire period that the PWS is not operating, except that the PWSs that monitor less frequently than monthly must still monitor during the vulnerable period designated by the Department. The Department may exempt a seasonal PWS from Subsection 552.08.a. if the owner or operator of the PWS meets all of the following conditions: (7-1-24)

i. Requests an exemption in writing to the Department for approval; (7-1-24)

ii. Demonstrates a clean compliance history as defined in Section 003 for a minimum of five (5) years; (7-1-24)

iii. Has no uncorrected significant deficiencies from the most recent sanitary survey; and (7-1-24)

iv. Total coliform samples submitted to a certified laboratory within 30 (thirty) days prior to serving water to the public demonstrate the absence of total coliform. (7-1-24)

~~553. CLASSIFICATION OF WATER SYSTEMS.~~

~~**01. System Classification Required**. The Department will classify community, non-transient non-community, and surface water PWSs based on indicators of potential health risks.~~ ~~(7-1-24)~~

~~**02. Classification Criteria**. PWSs are classified under a system that uses the following criteria: (7-1-24)~~

~~**a.** Complexity, size, and type of source water for treatment facilities. (7-1-24)~~

~~**b.** Complexity and size of distribution systems. (7-1-24)~~

~~**c.** Other criteria deemed necessary to completely classify PWSs. (7-1-24)~~

~~**d.** The Department will develop guidelines for applying the criteria set forth in Section 553. (7-1-24)~~

~~**03. Classification Review.** The Department will review PWS classifications on a minimum five (5) year frequency. (7-1-24)~~

~~554. LICENSED OPERATOR REQUIREMENTS.~~

~~**01. Licensed Operator Required**. Owners of all community, non-transient non-community, and surface water or groundwater sources directly influenced by surface water must place the direct supervision of their PWS under the responsible charge of a properly licensed operator at all times. When the responsible operator is not available, the PWS owner must designate a substitute responsible operator. (7-1-24)~~

~~**02. Responsible Charge Operator License Requirement**. An operator in responsible charge of a PWS must hold a valid Idaho license equal to or greater than the classification of the PWS where the responsible charge operator is in charge as defined in Section 003. (7-1-24)~~

~~**03. Water Operator License Requirement**. All operating personnel at PWSs subject to these requirements making process control/ system integrity decisions about water quality or quantity that can affect public health must hold a valid Idaho license. (7-1-24)~~

~~**04. Water Operator License Upgrade Allowance**. A twelve (12) month period will be provided to meet increased drinking water distribution system operator licensure requirements when a higher licensure level is required based on a population increase if the following requirements are met: (7-1-24)~~

~~**a.** The licensure increase is triggered solely by a population increase; and (7-1-24)~~

~~**b.** The responsible charge operator of the PWS at the time the distribution licensure requirement increases remains the responsible charge operator throughout the twelve (12) month time frame. (7-1-24)~~

~~555. -- 559. (RESERVED)~~

~~560. CONTRACTING FOR SERVICES.~~

~~PWS owners who contract with persons to provide responsible charge operators and substitute responsible charge operators need to submit proof of such contract to the Department prior to the contracted person performing any services at the PWS. (7-1-24)~~

~~561. -- 562. (RESERVED)~~

~~563. ADVISORY GROUP.~~

~~Ongoing stakeholder involvement will be provided through the existing drinking water advisory committee at the Department. (7-1-24)~~

564~~53~~. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.11 – GROUND WATER QUALITY RULE

DOCKET NO. 58-0111-2501 (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. This action is authorized by Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 17, 2025. If no such written request is received, a public hearing will not be held. Three public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with Executive Order No. 2020-01, Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 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: Link. This is one of the DEQ rule chapters up for review in 2025. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions and increase clarity and ease of use.

In line with the Zero-Based Regulation Executive Order, DEQ removed the majority of a table that outlined primary federal drinking water standards and, instead, adopted the standards by reference, which maintains consistency with intent of using the federal drinking water standards for the groundwater rule and removes words and inconsistencies. By doing so, the rule now mirrors the federal drinking water standards for uranium, arsenic, and PFAS.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho State Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: This rulemaking does not impose or increase a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. This rule chapter includes a point of compliance application fee. The fee is authorized by Idaho Code § 39-119.

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: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On March 5, 2025, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/groundwater-quality-docket-no-58-0111-2501/.

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.

Incorporation by reference allows DEQ to keep its rules up to date with federal regulations and simplifies compliance for the regulated community. An electronic link to the incorporated material is available in the rule. This rulemaking does not propose to adopt amendments to materials previously incorporated by reference. The following sections of 40 CFR Part 141 are proposed for incorporation by reference into IDAPA 58.01.11 for the first time:

- 40 CFR 141.61(a) and (c) - organic contaminants
- 40 CFR 141.62(b) - inorganic contaminants
- 40 CFR 141.64 - disinfection byproducts
- 40 CFR 141.66 - radionuclides

IDAHO CODE SECTION 39-107D STATEMENT: This rule proposes to regulate an activity not regulated by the federal government and has previously been approved as meeting the requirements of Section 39-107D, Idaho Code, in Docket No. 58-0111-1901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact the undersigned.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 24, 2025. Submit written comments to the undersigned.

Dated this 3rd day of September, 2025.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0111-2501
(ZBR Chapter Rewrite.)

58.01.11 – ~~GROUND WATER~~ GROUNDWATER QUALITY RULE

000. LEGAL AUTHORITY.
~~The Idaho Legislature has given the Board of Environmental Quality authority to promulgate the Ground Water Quality Rule pursuant to~~ Sections 39-105, 39-107, 39-120, and 39-126, Idaho Code. ~~The authority to formulate and adopt rules as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Director and Board pursuant to Sections 39-105 and 39-107, Idaho Code. Under Section 39-120, Idaho Code, the Board is authorized to adopt, by rule, ambient ground water quality standards. Under Section 39-126, Idaho Code, all state agencies shall incorporate the Ground Water Quality Plan, adopted by the legislature, in the administration of their programs and are granted authority to promulgate rules to protect ground water quality as necessary to administer such programs.~~ ~~(3-24-22)~~( )

001. ~~TITLE AND~~ SCOPE.

~~**01. Title**. This rule is titled IDAPA 58.01.11, Rules of the Department of Environmental Quality, IDAPA 58.01.11, "Ground Water Quality Rule." (3-24-22)~~

~~**02. Scope**. Under Section 39-120, Idaho Code, the Department of Environmental Quality is designated as the primary agency to coordinate and administer ground water quality protection programs for the state.~~ This rule establishes minimum requirements for protection of ~~ground water~~ groundwater quality through standards and an aquifer categorization process~~. The requirements of this rule shall~~ and serves as a basis for ~~the administration of~~ administering programs ~~which address ground water~~ that address groundwater quality. This rule does not ~~in and of itself~~ create a permit program. ~~(3-24-22)~~( )

002. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." (3-24-22)

~~**003. WRITTEN INTERPRETATIONS.**~~
~~The Department of Environmental Quality may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied, at cost, at the Department of Environmental Quality, 1410 North Hilton, Boise, ID 83706-1255. (3-24-22)~~

003. INCORPORATION BY REFERENCE.
The following sections of 40 CFR Part 141, National Primary Drinking Water Regulations, revised as of July 1, 2025, are incorporated by reference: 40 CFR 141.61(a) and (c), organic contaminants; 40 CFR 141.62(b), inorganic contaminants; 40 CFR 141.64, disinfection byproducts; and 40 CFR 141.66, radionuclides. ( )

004. REFERENCED MATERIAL.
Statistical Guidance for Determining Background Ground Water Quality and Degradation, Department of Environmental Quality. ( )

004~~5~~. -- 00~~56~~. (RESERVED)

~~**006. POLICIES.**~~
~~It is the intent of the Department to implement, through this rule, the following policies from the Protection and Prevention Sections of the Idaho Ground Water Quality Plan, adopted by the legislature, 1992 Session Law, Chapter 310, Page 922. These policies are: (3-24-22)~~

~~**01. Ground Water Quality Protection**. It is the policy of the state of Idaho to maintain and protect the existing high quality of the state's ground water. (3-24-22)~~

~~**02. Existing and Projected Future Beneficial Uses**. The policy of the state of Idaho is that existing and projected future beneficial uses of ground water shall be maintained and protected, and degradation that would impair existing and projected future beneficial uses of ground water and interconnected surface water shall not be allowed. (3-24-22)~~

~~**03. Categorization of Ground Water**. The policy of the state of Idaho is to provide differential protection for the state's ground water resources. A ground water categorization system should be established for aquifers or portions of aquifers. The categorization system should be based on vulnerability of the ground water, existing and projected future beneficial uses of the ground water, existing quality of the ground water, and social and economic considerations. (3-24-22)~~

~~**04. Ground Water Quality Standards**. The policy of the state of Idaho is to establish ground water quality standards for biological, radiological, and chemical constituents. (3-24-22)~~

~~**05. Prevention of Ground Water Contamination**. The policy of the state of Idaho is to prevent contamination of ground water from all regulated and nonregulated sources of contamination to the maximum extent practical. (3-24-22)~~

~~06. Mining. The policy of the state of Idaho is to protect ground water and allow for the extraction of minerals above and within ground water.~~ (3-24-22)

007. DEFINITIONS.

The terms "Board," "Department," and "Person" are defined in Section 39-103, Idaho Code. The term "Groundwater" (Groundwater) is defined in Section 39-121, Idaho Code. ( )

01. Agricultural Chemical. Any pesticide, nutrient, or fertilizer used for the benefit of agricultural production or pest management. ~~(3-24-22)~~( )

02. Aquifer. A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. (3-24-22)

03. Beneficial Uses. Various uses of ~~ground water~~ groundwater in Idaho including, but not limited to, domestic water supplies, industrial water supplies including drinking water supplies, agricultural water supplies, aquacultural water supplies, and mining. A beneficial use is defined as actual current or projected future uses of ~~ground water~~ groundwater. ~~(3-24-22)~~( )

04. Best Available Method. Any system, process, or method ~~which~~ that is available to the public for commercial or private use to minimize the ~~impact of~~ degradation from point or nonpoint sources of contamination ~~on ground water~~ of groundwater quality. ~~(3-24-22)~~( )

05. Best Management Practice. A practice or combination of practices determined to be the most effective and practical means of preventing or reducing contamination ~~to ground water~~ of groundwater and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. ~~(3-24-22)~~( )

06. Best Practical Method. Any system, process, or method that is established and in routine use ~~which could~~ that can be used to minimize the ~~impact of~~ degradation from point or nonpoint sources of contamination on ~~ground water~~ groundwater quality. ~~(3-24-22)~~( )

~~07. Board. The Idaho Board of Environmental Quality.~~ ~~(3-24-22)~~

0~~8~~7. **Cleanup**. The removal, treatment, or isolation of a contaminant from ~~ground water~~ groundwater through the directed efforts of humans or the removal or treatment of a contaminant in ~~ground water~~ groundwater through management practice or the construction of barriers, trenches and other similar facilities for prevention of contamination, as well as the use of natural processes such as ~~ground water~~ groundwater recharge, natural decay, and chemical or biological decomposition. ~~(3-24-22)~~( )

0~~9~~8. **Constituent**. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ~~ground water~~ groundwater. ~~(3-24-22)~~( )

~~10~~09. **Contaminant**. Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste, or other substance ~~which~~ that does not occur naturally in ~~ground water~~ groundwater or ~~which~~ that naturally occurs at a lower concentration. ~~(3-24-22)~~( )

1~~1~~0. **Contamination**. The direct or indirect introduction into ~~ground water~~ groundwater of any contaminant caused in whole or in part by human activities. ~~(3-24-22)~~( )

1~~2~~1. **Crop Root Zone**. The zone that extends from the surface of the soil to the depth of the deepest crop root and is specific to a species of plant, group of plants, or crop. (3-24-22)

1~~3~~2. **Degradation**. The lowering of ~~ground water~~ groundwater quality as measured in a statistically significant and reproducible manner. ~~(3-24-22)~~( )

~~14. Department. The Department of Environmental Quality.~~ ~~(3-24-22)~~

153. **Extraction**. Physical removal of ore or waste rock from mineral-bearing deposits. Extraction does not include processing, which is the removal of target minerals from ores by physical or chemical methods. (3-24-22)

~~16. **Ground Water**. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil.~~ ~~(3-24-22)~~

174. ~~**Ground Water**~~ **Groundwater Quality Standard**. Values, either numeric or narrative, assigned to any constituent for the purpose of establishing minimum levels of protection. ~~(3-24-22)~~( )

185. **Highly Vulnerable ~~Ground Water~~ Groundwater**. ~~Ground water~~ Groundwater characterized by a relatively high potential for contaminants to enter ~~and/~~or be transported within the flow system. Determinations of ~~ground water~~ groundwater vulnerability will include consideration of land use practices and aquifer characteristics. ~~(3-24-22)~~( )

196. **Irreplaceable Source**. A ~~ground water~~ groundwater source serving a beneficial use(s) where the reliable delivery of comparable quality and quantity of water from an alternative source in the region ~~would~~ may be economically infeasible or precluded by institutional constraints. ~~(3-24-22)~~( )

~~20~~17. **Mine Operator**. Any person authorized to engage in mining activities, including without limitation those authorized by law, lease, contract, permit~~,~~ or plan of operation. It does not include a governmental agency that grants mineral leases or similar contracts or permits unless the agency is engaged in mining activities. ~~(3-24-22)~~( )

~~21~~18. **Mining Activity**. Recovery of a mineral from mineral-bearing deposits, which includes reclamation, extraction, excavation, overburden placement, disposal of tailings resulting from processing, and disposal of mineral extraction wastes, including tailings that are the result of extraction, waste rock, and other extraction wastes uniquely associated with mining. (3-24-22)

~~22~~19. **Mining Area**. The area on or within ~~which~~ that one (1) or more mining activities occur. The Department ~~shall~~ will determine the boundaries of the mining area ~~as provided in Section 401~~. Distinct mining activities may constitute separate mining areas. ~~(3-24-22)~~( )

~~2~~30. **Natural Background Level**. The level of any constituent in the ~~ground water~~ groundwater within a specified area as determined by representative measurements of the ~~ground water~~ groundwater quality unaffected by human activities. ~~(3-24-22)~~( )

~~24. **Person**. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any legal entity which is recognized by law as the subject of rights and duties.~~ ~~(3-24-22)~~

~~2~~51. **Point of Compliance**. The vertical surface where the Department determines compliance with ~~ground water~~ groundwater quality standards as provided in Subsection 400.05 and Section 401. ~~(3-24-22)~~( )

~~2~~62. **Practical Quantitation Level**. The lowest concentration of a constituent that can be reliably quantified among laboratories within specified limits of precision and accuracy during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. (3-24-22)

~~2~~73. **Projected Future Beneficial Uses**. Various uses of ~~ground water~~ groundwater, such as drinking water, aquaculture, industrial, mining, or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities, and social/economic considerations. ~~(3-24-22)~~( )

~~2~~84. **Recharge Area**. An area ~~in which~~ where water infiltrates into the soil or geological formation from, including but not limited to precipitation, irrigation practices and seepage from creeks, streams, and lakes, and percolates to one (1) or more aquifers. ~~(3-24-22)~~( )

29~~4~~5. **Reclamation**. The process of restoring an area affected by a mining activity to its original or another beneficial use, considering previous uses, possible future uses~~,~~ and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community~~,~~ and to minimize erosion, remove hazards, and maintain water quality. ~~(3-24-22)~~( )

~~30~~26. **Remediation**. Any action taken (1) to control the source of contamination, (2) to reduce the level of contamination, (3) to mitigate the effects of contaminants, ~~and/~~or (4) to minimize contaminant movement. Remediation includes providing alternate drinking water sources when needed. ~~(3-24-22)~~( )

~~31~~27. **Site Background Level**. The ~~ground water~~ groundwater quality at the hydraulically upgradient site boundary. ~~(3-24-22)~~( )

008. ~~--010.~~ ~~(RESERVED)~~

~~011. INCORPORATION BY REFERENCE.~~
~~Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in this rule. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations:~~ ~~(3-24-22)~~

~~01. Department of Environmental Quality~~~~. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.~~ ~~(3-24-22)~~

~~02. Law Library~~~~. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051.~~ ~~(3-24-22)~~

~~03. U.S. Government Printing Office~~~~. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174.~~ ~~(3-24-22)~~

~~012.~~ 149. (RESERVED)

150. IMPLEMENTATION.
This rule establishes minimum requirements to maintain and protect ~~ground water~~ groundwater quality. This rule applies to all activities with the potential to degrade ~~ground water~~ groundwater quality. ~~(3-24-22)~~( )

01. **~~Ground Water~~ Groundwater Quality Standards**. The numerical and narrative standards in Sections 200 and 301 identify minimum levels of protection for ~~ground water~~ groundwater quality and ~~shall~~ will be used as a basis for: ~~(3-24-22)~~( )

a. Evaluating or comparing ~~ground water~~ groundwater quality when developing or modifying best available methods, best management practices, or best practical methods; ~~(3-24-22)~~( )

b. Identifying permit conditions; (3-24-22)

c. Establishing cleanup levels; and (3-24-22)

d. Determining appropriate actions when ~~ground water~~ groundwater quality standards are exceeded. ~~(3-24-22)~~( )

02. **Aquifer Categorization**. Aquifers of the state ~~shall~~ will be categorized based on vulnerability of the ~~ground water~~ groundwater, existing and projected future beneficial uses of the ~~ground water~~ groundwater, existing water quality, and social and economic considerations. There ~~shall~~ will be three (3) aquifer categories, Sensitive Resource, General Resource, and Other Resource, to provide different levels of protection. The level of protection required for each category and application of standards to these categories are shown in Table I.

Table ~~4~~1. Level of Protection and Application of Standards to Aquifer Categories		
Category	**Level of Protection**	**Application of Standards**
Sensitive Resource	Apply best management practices and best available methods. This category provides the highest level of ~~ground water~~ groundwater protection.	May apply stricter standards than in Section 200.
General Resource	Apply best management practices and best practical methods to the maximum extent practical.	Apply numerical and narrative standards in Section 200.
Other Resource	Apply best management practices and best practical methods to the maximum extent practical.	May apply less strict standards than in Section 200.

~~(3-24-22)~~( )

a. All aquifers where there are activities with the potential to degrade ~~ground water~~ groundwater quality are categorized in Section 300. Those aquifers where no activities with the potential to degrade ~~ground water~~ groundwater quality are occurring will remain uncategorized until such activities are commenced. If no action is taken to categorize an aquifer when an activity(ies) with the potential to degrade ~~ground water~~ groundwater quality is initiated, the aquifer will automatically be categorized as General Resource. ~~(3-24-22)~~( )

b. Categorization ~~should~~ will be considered when an activity with the potential to degrade ~~ground water~~ groundwater quality is proposed over an aquifer or portion of an aquifer ~~which~~ that presently has no such activities and, based on the criteria in Section 350, the aquifer may be most appropriately categorized as Sensitive Resource or Other Resource. ~~(3-24-22)~~( )

c. Recategorization ~~should~~ will be considered when information on vulnerability of the ~~ground water~~ groundwater, existing and projected future beneficial uses of the ~~ground water~~ groundwater, existing quality of the ~~ground water~~ groundwater~~,~~ and social and economic considerations, in conjunction with one (1) or more of the criteria in Section 350, demonstrates that the aquifer or portion of an aquifer may be more appropriate in another category. ~~(3-24-22)~~( )

03. ~~Ground Water~~Groundwater-Surface Water Interconnection. The beneficial uses of interconnected surface water ~~shall~~ will be recognized when evaluating ~~ground water~~ groundwater quality protection. The implementation of water quality programs ~~shall~~ ensure that the quality of ~~ground water~~ groundwater that discharges to surface water does not impair the identified beneficial uses of the surface water and that surface water infiltration does not impair beneficial uses of ~~ground water~~ groundwater. ~~(3-24-22)~~( )

04. Interagency Coordination. The Department will coordinate with other federal, state, and local agencies to pursue interagency agreements when necessary to ensure implementation of this rule for activities ~~which have~~ with the potential to degrade ~~ground water~~ groundwater quality. ~~(3-24-22)~~( )

151. -- 199. (RESERVED)

200. ~~GROUND WATER~~ GROUNDWATER QUALITY STANDARDS.
The following numerical and narrative standards apply to all ~~ground water~~ groundwater of the state and shall not be exceeded unless otherwise allowed in this rule. ~~(3-24-22)~~( )

01. Numerical ~~Ground Water~~ Groundwater Quality Standards. ~~(3-24-22)~~( )

a. The Primary Constituent Standards are based on protection of human health and are identified in Table II for the bacteriological contaminants. For chemical and radiological contaminants, the following sections of 40 CFR Part 141, National Primary Drinking Water Regulations, are incorporated by reference into these rules: 40 CFR 141.61(a) and (c), organic contaminants; 40 CFR 141.62(b), inorganic contaminants; 40 CFR 141.64, disinfection byproducts; and 40 CFR 141.66, radionuclides.

Table II–. Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l L unless otherwise specified)**
7440-36-0	Antimony	0.006
7440-38-2	Arsenic	0.05
1332-21-4	Asbestos	7 million fibers/l longer than 10 um
7440-39-3	Barium	2
7440-41-7	Beryllium	0.004
7440-43-9	Cadmium	0.005
7440-47-3	Chromium	0.1
7440-50-8	Copper	1.3
57-12-5	Cyanide	0.2
16984-48-8	Fluoride	4
7439-92-1	Lead	0.015
7439-97-6	Mercury	0.002
*[1]	Nitrate (as N)	10
*[1]	Nitrite (as N)	1
*[1]	Nitrate and Nitrite (both as N)	10
7782-49-2	Selenium	0.05
7440-28-0	Thallium	0.002
15972-60-8	Alachlor	0.002
1912-24-9	Atrazine	0.003
71-43-2	Benzene	0.005
50-32-8	Benzo(a)pyrene (PAH)	0.0002
75-27-4	Bromodichloromethane (THM)	0.1
75-25-2	Bromoform (THM)	0.1
1563-66-2	Carbofuran	0.04
56-23-5	Carbon Tetrachloride	0.005
57-74-9	Chlordane	0.002
124-48-1	Chlorodibromomethane (THM)	0.1
67-66-3	Chloroform(THM)	0.002
94-75-7	2,4-D	0.07
75-99-0	Dalapon	0.2

Table II–. Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l L unless otherwise specified)**
103-23-1	Di(2-ethylhexyl) adipate	0.4
96-12-8	Dibromochloropropane	0.0002
541-73-1	Dichlorobenzene m-	0.6
95-50-1	Dichlorobenzene o-	0.6
106-46-7	1,4(para) Dichlorobenzene or Dichlorobenzene p-	0.075
107-06-2	1,2 Dichloroethane	0.005
75-35-4	1,1-Dichloroethylene	0.007
156-59-2	cis-1, 2-Dichloroethylene	0.07
156-60-5	trans-1, 2-Dichloroethylene	0.1
75-09-2	Dichloromethane	0.005
78-87-5	1,2 Dichloropropane	0.005
117-81-7	Di(2-ethylhexyl)phthalate	0.006
88-85-7	Dinoseb	0.007
85-00-7	Diquat	0.02
145-73-3	Endothall	0.1
72-20-8	Endrin	0.002
100-41-4	Ethylbenzene	0.7
106-93-4	Ethylene dibromide	0.00005
1071-83-6	Glyphosate	0.7
76-44-8	Heptachlor	0.0004
1024-57-3	Heptachlor epoxide	0.0002
118-74-1	Hexachlorobenzene	0.001
77-47-4	Hexachlorocyclopentadiene	0.05
58-89-9	Lindane	0.0002
72-43-5	Methoxychlor	0.04
108-90-7	Monochlorobenzene	0.1
23135-22-0	Oxamyl (Vydate)	0.2
87-86-5	Pentachlorophenol	0.001
1918-02-1	Picloram	0.5
1336-36-3	Polychlorinated biphenyls (PCBs)	0.0005
122-34-9	Simazine	0.004

Table II–. Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l L unless otherwise specified)**
100-42-5	Styrene	0.1
1746-01-6	2,3,7,8-TCDD (Dioxin)	3.0 x 10-8
127-18-4	Tetrachloroethylene	0.005
108-88-3	Toluene	1
*[1]	Total Trihalomethanes [the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)]	0.1
8001-35-2	Toxaphene	0.003
93-72-1	2,4,5-TP (Silvex)	0.05
120-82-1	1,2,4-Trichlorobenzene	0.07
71-55-6	1,1,1-Trichloroethane	0.2
79-00-5	1,1,2-Trichloroethane	0.005
79-01-6	Trichloroethylene	0.005
75-01-4	Vinyl Chloride	0.002
1330-20-7	Xylenes (total)	10
*[1]	Gross alpha particle activity (including radium-226, but excluding radon and uranium)	15 pCi/l
*[1]	Combined beta/photon emitters	4 millirems/year effective dose equivalent
*[1]	Combined Radium-226 and radium 228	5 pCi/l
*[1]	Strontium-90	8 pCi/l
*[1]	Tritium	20,000 pCi/l
7439-92-1	Lead	0.010
7440-50-8	Copper	1.3
*[1]	Total Coliform[2]	1 colony forming unit/100 ml
	Escherichia coliform (E. coli)	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
	Fecal coliform	Less than 1 viable colony or colony forming unit/100 ml using any EPA approved method
Table Footnotes		
*[1]No Chemical Abstract Service Number exists for this constituent.		

Table II–. Primary Constituent Standards		
Chemical Abstract Service Number	**Constituent**	**Standard (mg/l~~l~~L unless otherwise specified)**
[2] An exceedance of the primary ~~ground water~~ groundwater quality standard for total coliform is not a violation of these rules. If the primary ~~ground water~~ groundwater quality standard for total coliform is exceeded, additional analysis for fecal coliform or E. coli will be conducted. An exceedance of the primary ~~ground water~~ groundwater quality standards for either fecal coliform or E. coli is a violation of these rules.		

~~(3-24-22)~~( )

b. The Secondary Constituent Standards are generally based on aesthetic qualities and are identified in Table III.

~~TABLE III - SECONDARY CONSTITUENT STANDARDS~~Table III. Secondary Constituent Standards	
Constituent	**Standard (mg/l unless otherwise specified)**
Aluminum	0.2
Chloride	250
Color	15 Color Units
Foaming Agents	0.5
Iron	0.3
Manganese	0.05
Odor	3.0 Threshold Odor Number
pH	6.5 to 8.5 (no units apply)
Silver	0.1
Sulfate	250
Total Dissolved Solids	500
Zinc	5

~~(3-24-22)~~( )

c. Sample preservation and analytical procedures to determine compliance with the standards identified in Subsection 200.01 ~~shall~~ must be in accordance with ~~the following~~ Subsections 200.01.c.i and ii., except that cyanide ~~shall~~ must be analyzed as weak acid dissociable cyanide ~~using a~~, as defined in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," or other methods approved by the Department: ~~(3-24-22)~~( )

i. ~~Environmental Protection Agency, Code of Federal Regulations, Title 40, Parts 141 and 143, revised as of July 2001~~40 CFR Part 141, National Primary Drinking Water Regulations, Subpart C, Monitoring and Analytical Requirements, provided in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or

~~(3-24-22)~~( )

ii. Another method approved by the Department. (3-24-22)

02. Narrative ~~Ground Water~~ Groundwater Quality Standards. Contaminant concentrations, alone or in combination with other contaminants or properties, ~~shall~~ may not cause the ~~ground water~~ groundwater to be hazardous, deleterious, carcinogenic, mutagenic, teratogenic, or toxic. Determinations of specific numerical levels when applying this standard ~~shall~~ must be based on: ~~(3-24-22)~~( )

a. Best scientific information currently available on adverse effects of the contaminant(s); (3-24-22)

b. Protection of a beneficial use; or (3-24-22)

c. Practical quantitation levels for the contaminant(s), if they exceed the levels identified in Subsection 200.02.a. or 200.02.b. (3-24-22)

03. Natural Background Level. If the natural background level of a constituent exceeds the standard in this section, the natural background level ~~shall~~ will be used as the standard. ~~(3-24-22)~~( )

201. -- 299. (RESERVED)

300. CATEGORIZED AQUIFERS OF THE STATE.
Aquifers or portions of aquifers in the state are categorized as follows: (3-24-22)

01. Sensitive Resource. (3-24-22)

a. Spokane Valley -- Rathdrum Prairie Aquifer. (3-24-22)

i. In addition to the ~~ground water~~ groundwater quality standards in Section 200, the following narrative standard applies: the aquifer ~~shall~~ may not be degraded, as it relates to beneficial uses, as a result of point source or nonpoint source activity unless it is demonstrated by the person proposing the activity that such change is justifiable as a result of necessary economic or social development. ~~(3-24-22)~~( )

02. General Resource. All aquifers or portions of aquifers where there are activities with the potential to degrade ~~ground water~~ groundwater quality of the aquifer~~,~~ unless otherwise listed in Subsection 300.01 or 300.03. Once an activity with the potential to degrade the ~~ground water~~ groundwater quality of an uncategorized aquifer or portion of an aquifer is initiated, the uncategorized aquifer ~~shall~~ will automatically become General Resource unless petitioned into the Sensitive Resource or Other Resource category. ~~(3-24-22)~~( )

03. Other Resource. (3-24-22)

301. MANAGEMENT OF ACTIVITIES WITH THE POTENTIAL TO DEGRADE AQUIFERS.
The evaluation of activities for all aquifer categories should include water quality and hydrogeological modeling that consider existing and future conditions. ( )

01. Sensitive Resource Category Aquifers. (3-24-22)

a. Activities ~~with the potential to degrade Sensitive Resource aquifers shall~~ must be managed in a manner which maintains or improves existing ~~ground water~~ groundwater quality through the use of best management practices and best available methods except when a point of compliance is set pursuant to Section 401. ~~(3-24-22)~~( )

b. Numerical and narrative standards identified in Section 200 ~~shall~~ apply to aquifers or portions of aquifers categorized as Sensitive Resource. In addition, stricter numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. ~~(3-24-22)~~( )

02. General Resource Category Aquifers. (3-24-22)

a. Activities ~~with the potential to degrade General Resource aquifers shall~~ must be managed in a manner which maintains or improves existing ~~ground water~~ groundwater quality through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. ~~(3-24-22)~~( )

b. Numerical and narrative standards identified in Section 200 ~~shall~~ apply to aquifers or portions of aquifers categorized as General Resource. ~~(3-24-22)~~( )

03. Other Resource Category Aquifers. (3-24-22)

a. Activities ~~with the potential to degrade Other Resource aquifers shall~~ must be managed in a manner which maintains existing ~~ground water~~ groundwater quality, except for those identified constituents which may have a less stringent standard, through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401. ~~(3-24-22)~~( )

b. Numerical and narrative standards identified in Section 200 ~~shall~~ apply to aquifers or portions of aquifers categorized as Other Resource. In addition, less strict numerical and narrative standards, for specified constituents, may be adopted pursuant to Section 350 on a case by case basis and listed in Section 300. ~~(3-24-22)~~( )

302. -- 349. (RESERVED)

350. PROCEDURES FOR CATEGORIZING OR RECATEGORIZING AN AQUIFER.
The following process ~~shall~~ will be used for categorizing or recategorizing an aquifer. ~~(3-24-22)~~( )

01. Criteria for Aquifer Categories. The following criteria ~~shall~~ will be considered when a petition to categorize or recategorize aquifers or portions of aquifers is submitted to the Board~~:~~. ~~(3-24-22)~~( )

a. For Sensitive Resource aquifers, the groundwater in an aquifer or portion of an aquifer: ~~(3-24-22)~~( )

i. ~~The ground water in an aquifer or portion of an aquifer i~~Is of a better quality than the ~~ground water~~ groundwater quality standards in Section 200 and maintenance of this quality is needed to protect an identified beneficial use(s); ~~(3-24-22)~~( )

ii. ~~The ground water in an aquifer or portion of an aquifer i~~Is considered highly vulnerable; ~~(3-24-22)~~( )

iii. ~~The ground water in an aquifer or portion of an aquifer r~~Represents an irreplaceable source for the identified beneficial use(s); ~~(3-24-22)~~( )

iv. ~~The ground water quality in an aquifer or portion of an aquifer h~~Has been degraded and there is a need for additional protection measures to maintain or improve the water quality or prevent impairment of a beneficial use; ~~(3-24-22)~~( )

v. ~~The ground water within an aquifer or portion of an aquifer i~~Is shown to be hydrologically interconnected with surface water and additional protection is needed to maintain the quality of either surface or ~~ground water~~ groundwater. Hydrologic interconnections can include either natural or induced ~~ground water~~ groundwater recharge or discharge areas; or ~~(3-24-22)~~( )

vi. ~~The ground water within an aquifer or portion of an aquifer d~~Demonstrates other criteria which justify the need for additional protection. ~~(3-24-22)~~( )

b. For General Resource aquifers: (3-24-22)

i. An activity with the potential to degrade ~~ground water~~ groundwater quality is initiated over an aquifer or portion of an aquifer which presently has no such activities; ~~(3-24-22)~~( )

ii. The ~~ground water~~ groundwater in an aquifer or portion of an aquifer: ( )

(1) ~~i~~Is currently being used for drinking water or another beneficial use which requires similar protection; or ~~(3-24-22)~~( )

~~iii~~(2). ~~The ground water in an aquifer or portion of an aquifer h~~Has a projected future beneficial use of drinking water or another beneficial use which requires similar protection. ~~(3-24-22)~~( )

c. For ~~o~~Other ~~r~~Resource aquifers: ~~(3-24-22)~~( )

i. The ~~ground water~~ groundwater quality within an aquifer or portion of an aquifer does not meet one (1) or more of the ~~ground water~~ groundwater quality standards in Section 200; and allowing the ~~ground water~~ groundwater quality to remain at this level does not impair existing or projected future beneficial uses within the aquifer or portion of an aquifer; ~~(3-24-22)~~( )

ii. The projected ~~ground water~~ groundwater quality within an aquifer or portion of an aquifer will not meet one (1) or more of the ~~ground water~~ groundwater quality standards in Section 200 as a result of activities over or within the aquifer or portion of an aquifer~~;~~, and allowing the proposed degradation will not impair existing or projected future beneficial uses; ~~(3-24-22)~~( )

iii. Human caused conditions or sources of contamination have resulted in ~~ground water~~ groundwater quality standards in Section 200 being exceeded, and the contamination cannot be remedied for economical or technical reasons, or remediation would cause more environmental damage to correct than to leave in place; or ~~(3-24-22)~~( )

iv. The ~~ground water~~ groundwater within an aquifer or portion of an aquifer demonstrates other criteria which justify the need for categorization as an Other Resource. ~~(3-24-22)~~( )

02. Petition Process. The Department or any other person may petition the Board to initiate rulemaking to categorize or recategorize an aquifer or portion of an aquifer pursuant to ~~IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records."~~ Section 67-5230, Idaho Code. In addition to the information required in a rulemaking ~~P~~petition ~~pursuant to IDAPA 58.01.23~~, the following information ~~shall~~ must be submitted in writing by the ~~P~~petitioner for the identified aquifer or portion of an aquifer: ~~(3-24-22)~~( )

a. Current category, if applicable; (3-24-22)

b. Proposed category and an explanation of how one (1) or more of the criteria in Subsection 350.01 are met; ~~(3-24-22)~~( )

c. An explanation of why the categorization or recategorization is being proposed; (3-24-22)

d. Location, description, and areal extent; ~~(3-24-22)~~( )

e. General location and description of existing and projected future ~~ground water~~ groundwater beneficial uses; ~~(3-24-22)~~( )

f. Documentation of the existing ~~ground water~~ groundwater quality; ~~(3-24-22)~~( )

g. Documentation of aquifer characteristics, where available, including, but not limited to: (3-24-22)

i. Depth to ~~ground water~~ groundwater; ~~(3-24-22)~~( )

ii. Thickness of the water bearing section; (3-24-22)

iii. Direction and rate of ~~ground water~~ groundwater flow; ~~(3-24-22)~~( )

iv. Known recharge and discharge areas; and (3-24-22)

v. Geology of the area; and ~~(3-24-22)~~( )

h. Identification of any proposed standards, for specified constituents, ~~which would be stricter~~ that are more or less strict than the ~~ground water~~ groundwater quality standards in Section 200, or any standards to be applied in addition to those in Section 200~~;~~, and a rationale for the proposed standards. ~~(3-24-22)~~( )

03. Preliminary Department Review. Prior to submission of a petition to the Board to categorize or recategorize an aquifer, any person may seek a preliminary review of the petition from the Department. The Department ~~shall~~ will respond to the petitioner with comments within forty-five (45) days. ~~(3-24-22)~~( )

351. -- 399. (RESERVED)

400. ~~GROUND WATER~~ GROUNDWATER CONTAMINATION.

01. Releases Degrading ~~Ground Water~~ Groundwater Quality. No person ~~shall~~ may cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment in a manner that: ~~(3-24-22)~~( )

a. Causes a ~~ground water~~ groundwater quality standard to be exceeded; ~~(3-24-22)~~( )

b. Injures a beneficial use of ~~ground water~~ groundwater; or ~~(3-24-22)~~( )

c. Is not in accordance with a permit~~;~~, consent order, or applicable best management practice, best available method, or best practical method. ~~(3-24-22)~~( )

02. Measures Taken in Response to Degradation. (3-24-22)

a. Except when a point of compliance is set pursuant to Section 401, when a numerical standard is not exceeded, but degradation of ~~ground water~~ groundwater quality is detected and deemed significant by the Department, the Department ~~shall~~ will take one (1) or more of the following actions: ~~(3-24-22)~~( )

i. Require a modification of regulated activities to prevent continued degradation; (3-24-22)

ii. Coordinate with the appropriate agencies and responsible persons to develop and implement prevention measures for activities not regulated by the Department; (3-24-22)

iii. Allow limited degradation of ~~ground water~~ groundwater quality for the constituents identified in Subsection 200.01.a. if it can be demonstrated that: ~~(3-24-22)~~( )

(1) Best management practices, best available methods, or best practical methods, as appropriate for the aquifer category, are being applied; and ~~(3-24-22)~~( )

(2) The degradation is justifiable based on necessary and widespread social and economic considerations; or (3-24-22)

iv. Allow degradation of ~~ground water~~ groundwater quality up to the standards in Subsection 200.01.b., if it can be demonstrated that: ~~(3-24-22)~~( )

(1) Best management practices are being applied; and (3-24-22)

(2) The degradation will not ~~adversely impact~~ impair a beneficial use. ~~(3-24-22)~~( )

b. The following criteria ~~shall~~ will be considered when determining the significance of degradation:

~~(3-24-22)~~( )

i. Site specific hydrogeologic conditions; (3-24-22)

ii. Water quality, including seasonal variations; (3-24-22)

iii. Existing and projected future beneficial uses; (3-24-22)

iv. Related public health issues; and (3-24-22)

v. Whether the degradation involves a primary or secondary constituent in Section 200. (3-24-22)

03. Contamination Exceeding a ~~Ground Water~~ Groundwater Quality Standard. The discovery of any contamination exceeding a ~~ground water~~ groundwater standard that poses a threat to existing or projected future beneficial uses of ~~ground water~~ groundwater ~~shall~~ requires appropriate actions, as determined by the Department, to prevent further contamination. These actions may consist of investigation and evaluation, or enforcement actions if necessary to stop further contamination or clean up existing contamination~~, as required under the Environmental Protection and Health Act, Section 39-108, Idaho Code~~. ~~(3-24-22)~~( )

04. Agricultural Chemicals. Agricultural chemicals found in intermittently saturated soils within the crop root zone will not be considered ~~ground water~~ groundwater contaminants as long as the chemicals remain within the crop root zone, and have been applied in a manner consistent with all appropriate regulatory ~~requirements~~ provisions. ~~(3-24-22)~~( )

05. Site-Specific ~~Ground Water~~ Groundwater Quality Levels or Points of Compliance. The Department may allow site-specific ~~ground water~~ groundwater quality levels, for any aquifer category, that vary from a standard(s) in Section 200 or Section 300, or may allow site-specific points of compliance, based on consideration of effects to human health and the environment, for: ~~(3-24-22)~~( )

a. Remediation conducted under the Department's oversight; (3-24-22)

b. Permits issued by the Department; (3-24-22)

c. Situations where the site background level varies from the ~~ground water~~ groundwater quality standard; ~~(3-24-22)~~( )

d. Dissolved concentrations of secondary constituents listed in Section 200 of this rule. The Department may allow the use of dissolved concentrations for secondary constituents if the requesting person demonstrates that doing so will not adversely affect human health and the environment; or (3-24-22)

e. Other situations authorized by the Department in writing. (3-24-22)

401. MINING.

01. Request for Setting Point(s) of Compliance and Standards Applicable to Mining Activities. At the request of a mine operator, pursuant to this section, the Department ~~shall~~ will set a point of compliance, or points of compliance, at which the mine operator ~~shall~~ must protect current and projected future beneficial uses of the ~~ground water~~ groundwater and meet the ~~ground water~~ groundwater quality standards as described in Section 200 or as allowed under Subsection 400.05. Degradation of ~~ground water~~ groundwater is allowed at a point of compliance if the mine operator implements the level of protection during mining activities appropriate for the aquifer category as specified in Table ~~I~~I of Subsection 150.02. If a request is not made, the mine operator must meet the ~~ground water~~ groundwater quality standards as described in Subsection 150.01 in ~~ground water~~ groundwater both within and beyond the mining area unless the Department establishes the point(s) of compliance consistent with Subsection 401.03. ~~(3-24-22)~~( )

02. Application Process. (3-24-22)

a. If the mine operator requests a point(s) of compliance~~, or points of compliance,~~ the mine operator ~~shall~~ must make a written application to the Department. The application ~~shall~~ must be accompanied by a fee of two thousand five hundred dollars ($2,500)~~. The application shall~~ and include the following information in sufficient detail to allow the Department to establish point(s) of compliance: ~~(3-24-22)~~( )

i. Name, location, and mailing address of the mining operation; (3-24-22)

ii. Name, mailing address, and phone number of the mine operator; (3-24-22)

iii. Land ownership status of the mining operation (federal, state, private, or public); ~~(3-24-22)~~( )

iv. The legal structure (corporation, partnership, etc.) and residence of the mine operator; (3-24-22)

v. The legal description, to the quarter-quarter section, of the location of the proposed mining operation; (3-24-22)

vi. Evidence the mine operator is authorized by the Secretary of State to conduct business in the state of Idaho; (3-24-22)

vii. A general description of the operational plans for the mining operation from construction through final reclamation. This description ~~shall~~ must include any proposed phases for construction, operations, and reclamation and a map that identifies the location of all mining activities; ~~(3-24-22)~~( )

viii. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the mining area, identifying and showing the location and extent of the following features: (3-24-22)

(1) All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters, and irrigation ditches; ~~(3-24-22)~~( )

(2) All public and private drinking water supply source(s) within one (1) mile of the mining area; (3-24-22)

(3) All service roads and public roads; (3-24-22)

(4) All buildings and structures within one (1) mile of the mining area; (3-24-22)

(5) All special resource waters within one (1) mile of the mining area; and (3-24-22)

(6) All Clean Water Act Section 303(d) listed streams, and their listed impairments, within one (1) mile of the mining area; (3-24-22)

ix. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ~~ground water~~ groundwater flow and direction; ~~(3-24-22)~~( )

x. Information regarding the relevant factors set forth in Subsection 401.03; and (3-24-22)

xi. A proposed point of compliance, or points of compliance. (3-24-22)

b. Within thirty (30) days of receipt of an application, the Department ~~shall~~ will issue a written notice to the mine operator indicating: ~~(3-24-22)~~( )

i. That the application is complete; or (3-24-22)

ii. That the Department is rejecting the application as incomplete. In such a case, the Department ~~shall~~ will provide a list of deficiencies. Upon a determination that the application is incomplete, the Department ~~shall~~ will refund one-half (1/2) of the application fee. ~~(3-24-22)~~( )

c. The Department ~~shall~~ will establish the point(s) of compliance within one hundred eighty (180) days after receipt of a complete application unless the Department determines that additional time is necessary due to unusual circumstances. ~~(3-24-22)~~( )

03. Setting the Point(s) of Compliance. The point(s) of compliance ~~shall~~ will be set as close as possible to the boundary of the mining area, taking into consideration the relevant factors set forth in Subsections 401.03.a. through 401.03.h., but in no event ~~shall~~ may the point(s) of compliance be within the boundary of the mining area. The mining area boundary means the outermost perimeter of the mining area (projected in the horizontal plane) as it would exist at the completion of the mining activity. The point(s) of compliance ~~shall~~ will be set so that, outside the mining area boundary, there is no ~~injury~~ impairment to current or projected future beneficial uses of ~~ground water~~ groundwater and there is no violation of water quality standards applicable to any interconnected surface waters. The Department's determination regarding the point(s) of compliance ~~shall~~ will be based on an analysis and consideration of all relevant factors including, but not limited to: ~~(3-24-22)~~( )

a. The hydrogeological characteristics of the mining area and surrounding land, including any dilution characteristics of the aquifer and any natural attenuation supported by site-specific data; (3-24-22)

b. The concentration, volume, and physical and chemical characteristics of contaminants resulting from the mining activity, including the toxicity and persistence of the contaminants; (3-24-22)

c. The quantity, quality, and direction of flow of ~~ground water~~ groundwater underlying the mining area; ~~(3-24-22)~~( )

d. The proximity and withdrawal rates of current ~~ground water~~ groundwater users; ~~(3-24-22)~~( )

e. A prediction of projected future beneficial uses; (3-24-22)

f. The availability of alternative drinking water supplies; (3-24-22)

g. The existing quality of the ~~ground water~~ groundwater, including other sources of contamination and their cumulative ~~impacts~~ effects on the ~~ground water~~ groundwater; and ~~(3-24-22)~~( )

h. Public health, safety, and welfare effects. (3-24-22)

04. ~~Ground Water~~ Groundwater Monitoring and Reporting. The Department ~~shall~~ will require ~~ground water~~ groundwater monitoring and reporting whenever the Department sets the point(s) of compliance. The Department ~~shall~~ will not require ~~ground water~~ groundwater monitoring that duplicates ~~ground water~~ groundwater monitoring required by other state or federal agencies as long as the mine operator provides the data to the Department. ~~(3-24-22)~~( )

a. A ~~ground water~~ groundwater monitoring system required under Subsection 401.04 ~~shall~~ must be designed to: ~~(3-24-22)~~( )

i. Represent the quality of background ~~ground water~~ groundwater that has not been affected by the mining activity; and ~~(3-24-22)~~( )

ii. Represent the quality of ~~ground water~~ groundwater passing the point(s) of compliance ~~in order~~ to determine compliance with ~~ground water~~ groundwater quality standards or effectiveness of best management practices. ~~(3-24-22)~~( )

b. When practicable, indicator monitoring wells or other devices may be required. Such indicator wells and other devices ~~shall~~ may not be used to determine compliance with the ~~ground water~~ groundwater quality standards, but instead may be used to evaluate modeling results, ~~to~~ predict the quality of ~~ground water~~ groundwater at the point(s) of compliance, or ~~to~~ determine the effectiveness of best management practices. ~~(3-24-22)~~( )

c. All monitoring wells ~~shall~~ must be constructed (well depth, well screen size, well screen interval,

gravel pack, etc.) and developed so that ~~ground water~~ groundwater samples represent the quality of ~~ground water~~ groundwater that is relevant to current and future beneficial uses. ~~(3-24-22)~~( )

05. Coordination with Other State or Federal Agencies/Public Notice. Before setting the point(s) of compliance or requiring ~~ground water~~ groundwater monitoring, the Department ~~shall~~ will coordinate with and seek recommendations from other state or federal agencies ~~that have~~ with regulatory authority over the mining activities. The Department may provide public notice and an opportunity for public comment prior to setting or changing the point(s) of compliance. The Department ~~shall~~ will issue a public notice after it sets the point(s) of compliance. ~~(3-24-22)~~( )

06. Limitations. Section 401 addresses only those contaminants that naturally occur in the mining area ~~ground water~~ groundwater or in the surrounding rock or soil and are present in concentrations above the natural background level as a result of mining activities. ~~(3-24-22)~~( )

07. Application of Provisions. The provisions ~~set out~~ in Section 401 apply to new mining activities ~~commencing after July 1, 2009~~. All consent orders, compliance schedules, and other agreements adopted or issued by the Department prior to July 1, 2009, pertaining to ~~ground water~~ groundwater protection at mine sites ~~shall~~ will remain in full force and effect. ~~(3-24-22)~~( )

08. Change in Point(s) of Compliance/~~Ground Water~~ Groundwater Monitoring. ~~(3-24-22)~~( )

a. A change in the point(s) of compliance may be requested by the mine operator when there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03. A change requested by the mine operator ~~shall~~ must include an identification of the new proposed point(s) of compliance, a description of the cause for the change, and any data supporting the change. The mine operator's request ~~shall~~ will be handled as an application submitted pursuant to Subsection 401.02.a. and ~~shall~~ will be subject to all other provisions of Section 401. ~~(3-24-22)~~( )

b. The Department may initiate a change in the point(s) of compliance if there is a change in, or new information regarding, the mining activity or any of the factors set forth in Subsection 401.03, and the Department determines that the change is necessary to ensure there is no ~~injury~~ impairment to current or projected future beneficial uses of ~~ground water~~ groundwater and no violation of water quality standards applicable to any interconnected surface waters. The Department ~~shall~~ will notify the mine operator in writing of the Department's intent to change the point(s) of compliance. The Department ~~shall~~ will make its final decision to change the point(s) of compliance within sixty (60) days of the notice to the mine operator unless the Department and the mine operator agree more time is necessary to make the decision. ~~(3-24-22)~~( )

c. The Department may require additional or new ~~ground water~~ groundwater monitoring or indicator wells when the Department changes the point(s) of compliance. The Department may also require additional or different ~~ground water~~ groundwater monitoring or indicator wells if the Department determines, based upon a change in or new information regarding the mining activity or any of the factors listed in Subsection 401.03, that the monitoring no longer meets the ~~requirements set forth~~ provisions in Subsection 401.04. The mine operator may also request a change in the monitoring. ~~(3-24-22)~~( )

402. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.12 – RULES FOR ADMINISTRATION OF WASTEWATER AND DRINKING WATER LOAN FUNDS

DOCKET NO. 58-0112-2501 (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. This action is authorized by Chapters 1, 36, and 76, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 17, 2025. If no such written request is received, a public hearing will not be held. Two public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with Executive Order No. 2020-01, Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 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: Link. This is one of the DEQ rule chapters up for review in 2025. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

DEQ added flexibility in professional liability insurance that had been requested in a previous rulemaking. This flexibility allows for a reduction in the amount of coverage based upon demonstration that public funds and project risk are protected.

A definition of affordability was added as well as points associated with affordability. A new tiered system to determine affordability was added that recognizes varying degrees of disadvantaged communities and affordability indicators. By establishing Tier 1, Tier 2, and Tier 3 criteria, DEQ can better tailor financial assistance based on varying levels of economic hardship and affordability challenges, helping to ensure that support is directed where it is most impactful.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho State Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: This rulemaking does not impose or increase a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. This rule chapter includes a loan fee imposed when necessary to offset costs of administering of the loan program and to provide direct planning and project assistance to funding applicants. The fee is authorized by Idaho Code §§ 39-119 and 39-3627(4).

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 resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On April 2, 2025, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/drinking-water-and-wastewater-loans-docket-no-58-0112-2501/.

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.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact MaryAnna Peavey at maryanna.peavey@deq.idaho.gov or (208) 373-0122.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 24, 2025. Submit written comments to the undersigned.

Dated this 3rd day of September, 2025.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0165
Diane.Cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0112-2501
(ZBR Chapter Rewrite.)

58.01.12 – RULES FOR ADMINISTRATION OF WASTEWATER AND DRINKING WATER LOAN FUNDS

000. LEGAL AUTHORITY.
~~The Idaho Board of Environmental Quality, pursuant to authority granted in~~ Chapters 1, 36, and 76, Title 39, Idaho Code~~, did adopt the following rules for the administration of the Wastewater and Drinking Water Loan Funds~~.
~~(3-24-22)~~( )

001. ~~TITLE AND~~ SCOPE.

~~**01. Title.** These rules are titled IDAPA 58.01.12, "Rules for Administration of Wastewater and Drinking Water Loan Funds."~~ ~~(3-24-22)~~

~~**02. Scope.** The provisions of t~~These rules ~~will~~ establish administrative procedures ~~and requirements~~ for establishing, implementing and administering two (2) state loan programs for providing financial assistance to eligible applicants of wastewater and drinking water projects. The U.S. Environmental Protection Agency provides annual capitalization grants to the state of Idaho for these programs. Financial assistance projects must be in conformance with the ~~requirements~~ provisions of ~~the~~ Subchapter VI of the federal Clean Water Act (33 U.S.C. Sections 1381 et seq.) and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.). ~~(3-24-22)~~( )

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." (3-24-22)

004. ~~INCORPORATION BY REFERENCE AND AVAILABILITY OF~~ REFERENCED MATERIAL.

~~01.~~ ~~Incorporation by Reference~~. ~~These rules do not contain documents incorporated by reference.~~ ~~(3-24-22)~~

0~~2~~1. ~~Availability of Referenced Material~~Customer Handbook Grants And Loans Program (Handbook). ~~The "Customer Handbook Grants and Loans Program" (Handbook) is a~~ Available at the Idaho Department of Environmental Quality, Drinking Water Protection and Finance Division, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502, or ~~DEQ website~~ https://www.deq.idaho.gov. ~~(3-24-22)~~( )

02. Idaho Standards for Public Works Construction. This document is available for a fee from the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208)344-0565, http://lhtac.org/resources/ispwc. ( )

~~005. CONFIDENTIALITY.~~
~~Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality."~~ ~~(3-24-22)~~

~~006. POLICY.~~
~~It is the policy of the Idaho Board of Environmental Quality through the Idaho Department of Environmental Quality, to administer the Wastewater Loan Fund for the purpose of protecting and enhancing the quality and value of the water resources of the state of Idaho by financially assisting in the prevention, control and abatement of water pollution and the Drinking Water Loan Fund for the purpose of providing assistance to eligible public drinking water systems for the planning, design, and construction of facilities to ensure safe and adequate drinking water. It is also the intent of the Idaho Board of Environmental Quality to assign a priority rating to those projects that will most significantly improve the quality of the waters of the state and most adequately protect the public health.~~ ~~(3-24-22)~~

005. -- 006. (RESERVED)

007. DEFINITIONS.
~~For the purpose of the rules contained in this chapter, the following definitions apply:~~The terms "Board," "Department," "Director" and "State" are defined in Section 39-103, Idaho Code. The term "Public Drinking Water System" (which includes "Community Water System," and "Non-community Water System") is defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." The terms "Wastewater," and "Wastewater System" are defined in IDAPA 58.01.16, "Wastewater Rules." ~~(3-24-22)~~( )

01. Affordability. An applicant's ability to pay for drinking water or wastewater service and infrastructure improvements while maintaining reasonable water and sewer rates for residents. ( )

02. Annual User Rate. The rate for drinking water or wastewater service for residential users based on all operating, maintenance, replacement and debt service costs for the existing system and for upgrades of proposed alternative. ( )

0~~1~~3. Applicant. An eligible system or nonpoint source project sponsor that has the ability to establish and maintain a loan repayment. ( )

~~a.~~ ~~When used in the context of wastewater loan fund, applicant is defined as a municipality or nonpoint source project sponsor that has the ability to establish and maintain a loan repayment source. Individuals and for-profit corporations are not eligible.~~ ~~(3-24-22)~~

~~b.~~ ~~When used in the context of drinking water loan fund, applicant is defined as any eligible system~~

~~making application for drinking water loan funds.~~ ~~(3-24-22)~~

~~**02. Best Management Practice**. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the most cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality needs.~~ ~~(3-24-22)~~

~~**03. Board**. The Idaho Board of Environmental Quality.~~ ~~(3-24-22)~~

04. Categorical Exclusion (CE). Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. (3-24-22)

~~**05. Close or Closing**. The date on which the loan recipient issues and physically delivers to the Department the bond or note evidencing the loan to the loan recipient, specifically determining the principal, interest and fee amounts that shall be repaid and the schedule for payment.~~ ~~(3-24-22)~~

~~**06. Collector Sewer**. That portion of the wastewater treatment facility whose primary purpose is to receive sewage from individual residences and other individual public or private structures and which is intended to convey wastewater to an interceptor sewer or a treatment plant.~~ ~~(3-24-22)~~

~~**07. Community Water System**. A public drinking water system that:~~ ~~(3-24-22)~~

~~**a.** Serves at least fifteen (15) service connections used by year-round residents of the area served by the system; or~~ ~~(3-24-22)~~

~~**b.** Regularly serves at least twenty-five (25) year-round residents.~~ ~~(3-24-22)~~

~~**08. Construction**. The erection, building, acquisition, alteration, reconstruction, improvement or extension of wastewater treatment or drinking water facilities, including preliminary planning to determine the economic and engineering feasibility, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of wastewater treatment or drinking water facilities; the inspection and supervision of the construction; and start-up of the associated facilities.~~ ~~(3-24-22)~~

0~~9~~5. **Contaminant**. Any physical, chemical, biological, or radiological substance or matter in water. (3-24-22)

~~**10. Department**. The Idaho Department of Environmental Quality.~~ ~~(3-24-22)~~

~~**11. Director**. The Director of the Idaho Department of Environmental Quality or his/her designee.~~ ~~(3-24-22)~~

~~12~~06. **Disadvantaged Community**. ~~The service area of a wastewater treatment facility or a public water system that meets affordability criteria established by the Department of Environmental Quality after public review and comment~~ A community or service area of a drinking water or wastewater system that meets the affordability criteria in Section 021 and may be eligible for loan modification, additional subsidy, or assistance. ~~(3-24-22)~~( )

~~13~~07. **Disadvantaged Loans**. Loans made to a disadvantaged community. (3-24-22)

~~**14. Distribution System**. Any combination of pipes, tanks, pumps, and other equipment that delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system.~~ ~~(3-24-22)~~

~~15~~08. **Eligible Costs**. Costs which are necessary for planning, designing and/or constructing drinking water or wastewater ~~treatment facilities~~ systems, or implementation of water pollution control projects. To be eligible, costs must be reasonable and not ineligible costs. The determination of eligible costs ~~shall~~ will be made by

the Department pursuant to Section 041. ~~(3-24-22)~~( )

~~16~~09. **Environmental Impact Statement (EIS)**. A document prepared by the applicant when the Department determines that the proposed construction project ~~may~~ will significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The environmental review procedures contained in Chapter 5 of the Handbooks may be used as guidance when preparing the EIS. ~~(3-24-22)~~( )

1~~7~~0. **Environmental Information Document (EID)**. Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed wastewater or drinking water construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project ~~and ultimately determine if an EIS is warranted~~. ~~(3-24-22)~~( )

1~~8~~1. **Financial Management System**. Uniform method of recording, summarizing and analyzing financial information about the loan applicant. (3-24-22)

1~~9~~2. **Finding of No Significant Impact (FONSI)**. A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an EIS will not be prepared. It ~~shall~~ must include the environmental assessment or a summary of it and shall note any other environmental documents related to it. ~~(3-24-22)~~( )

~~20. **Handbook**. The "Customer Handbook Grants and Loans Program." (3-24-22)~~

~~21~~13. **Implementation Plan**. ~~Completed~~ Nonpoint source project implementation plan or work plan provides detailed documentation of the proposed project including list of tasks, schedule of tasks, agency/contractor/entity responsible for implementation of the project tasks, adequate time schedules for completion of all budget tasks, and the anticipated results of the project. ~~(3-24-22)~~( )

~~22~~14. **Ineligible Costs**. Costs which are not eligible for funding pursuant to these rules. (3-24-22)

~~23. **Interceptor Sewer**. That portion of the wastewater treatment facility whose primary purpose is to transport domestic sewage or nondomestic wastewater from collector sewers to a treatment plant. (3-24-22)~~

~~24~~15. **Loan Recipient**. An applicant who has been awarded a loan. (3-24-22)

~~25. **Managerial Capability**. The capability of the loan applicant to support the proper financial and technical operation of the system. (3-24-22)~~

~~26. **Maximum Contaminant Level (MCL)**. The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (3-24-22)~~

~~27. **Noncommunity Water System**. A public water system that is not a community water system. (3-24-22)~~

~~28. **Nondomestic Wastewater**. Wastewaters originating primarily from industrial or commercial processes which carry little or no pollutants of human origin. (3-24-22)~~

~~29~~16. **Nonpoint Source Pollution**. Water pollution that enters the waters of the state from nonspecific and diffuse sources and is the result of runoff, precipitation, drainage, seepage, hydrological modification or land disturbing activities. (3-24-22)

~~30~~17. **Nonpoint Source Project Sponsor**. Any applicant for wastewater loan funds to address nonpoint source pollution. (3-24-22)

18. **Nonprofit Noncommunity Water System**. A public drinking water system that is not a community water system and is governed by 26 U.S.C Section 501 of the Internal Revenue Code and includes, but is not limited to, state agencies, municipalities and nonprofit organizations such as churches and schools. ( )

~~31~~19. **Operation and Maintenance Manual**. For wastewater or drinking water facilities, a guidance and training manual outlining the optimum operation and maintenance of the facilities and their components. For nonpoint source water pollution control projects, a plan that incorporates applicable sections of the Natural Resources Conservation Service Field Office Technical Guide, for implementation of best management practices. (3-24-22)

~~32~~20. **Planning Document**. A document which describes the condition of a public wastewater or drinking water system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents ~~shall~~ must be prepared by or under the responsible charge of an Idaho licensed professional engineer and ~~shall~~ bear the imprint of the engineer's seal. Requirements for planning documents prepared using loan funds are provided in Section 030 ~~of these rules~~ and in the Handbook~~s~~. ~~(3-24-22)~~( )

~~33. Plan of Operation. A schedule of specific actions and completion dates for construction, start up and operation of the facility or for implementation of wastewater or drinking water projects. (3-24-22)~~

~~34. Point Source. Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be discharged to the waters of the state. This term as used in these rules does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (3-24-22)~~

~~35. Pollutant. Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other beneficial uses. (3-24-22)~~

~~36~~21. **Priority List**. An integrated list of proposed wastewater ~~treatment facility~~ system and nonpoint source pollution control projects rated as described in Section 020; or a list of proposed drinking water projects rated by severity of risk to public health, the necessity to ensure compliance with IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems, and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.), population affected, and need on a household basis for protection of Idaho's public drinking water. ~~(3-24-22)~~( )

~~37. Public Drinking Water System/Public Water System/Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system." (3-24-22)~~

~~38~~22. **Readiness to Proceed**. The progress which a loan applicant has made toward~~s~~ completion of ~~time-consuming~~ tasks necessary to ~~complete a loan application~~ receive a loan (e.g. bond election, local improvement district formation, judicial confirmation towards debt authority, completion of facility plan). ~~(3-24-22)~~( )

~~39~~23. **Reserve Capacity**. That portion of the facility that is designed and incorporated in the constructed facilities to handle future demand upon the system. (3-24-22)

~~40~~24. **Sewer Use Ordinance/Sewer Use Resolution**. An ordinance or resolution that requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow, and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater ~~treatment facility~~ system. ~~(3-24-22)~~( )

~~41. State. The state of Idaho. (3-24-22)~~

~~42~~25. **Supplemental Grants**. ~~A state funded g~~ Grant funds awarded in conjunction with a loan ~~from the water pollution control loan account~~ or as a standalone to the project. ~~(3-24-22)~~( )

~~43~~26. **Suspension**. An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (3-24-22)

~~44~~27. **Sustainability**. Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-24-22)

~~45~~28. **Termination**. An action by the Director to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (3-24-22)

~~46~~29. **User Charge System**. A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism ~~as may be required and which~~ that provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the installed equipment or structures. ~~(3-24-22)~~( )

~~47. **Wastewater**. A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. (3-24-22)~~

~~48. **Wastewater Treatment Facility**. Any facility, including land, equipment, furnishings and appurtenances thereof, used for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems, land disposal systems; a sewage treatment plant. (3-24-22)~~

~~49~~30. **Water Pollution Control Project**. Any project that contributes to the removal, curtailment, or mitigation of pollution of the surface waters or groundwater of the state, or the restoration of the quality of said waters, and conforms to any applicable planning document which has been approved ~~and/or adopted such as~~ in the State Water Quality Management Plan. This includes the planning, design, construction/implementation or any other distinct stage or phase of a project. ~~(3-24-22)~~( )

~~50~~31. **Water System Protection Ordinance**. An ordinance adopted pursuant to Chapter 32, Title 42, Idaho Code, or other applicable law that requires new connections to be properly designed and constructed, which prohibits cross-connections with non-potable water sources and in all ways protects the water system from injection of contaminants, and that provides for fees for service from users or classes of users. (3-24-22)

008. ELIGIBLE SYSTEMS.

01. ~~Basic~~ Eligible Drinking Water ~~Considerations~~ Systems. ~~Public and private c~~ Community public water systems and nonprofit noncommunity water systems. ~~(3-24-22)~~( )

02. ~~Basic~~ Eligible Wastewater ~~Considerations~~ Systems. ~~Municipal or non-profit owned wastewater point source treatment facilities, lagoons, reuse facilities, and systems using nonpoint source methodologies of wastewater disposal~~ Counties, cities, special service districts, other governmental entities, and nonprofit corporations with authority to collect, treat, or dispose of wastewater or otherwise provide direct water quality benefits. ~~(3-24-22)~~( )

03. Assistance to Ensure Compliance. Public water systems are not eligible for ~~project loans may receive assistance if~~ a loan unless: ~~(3-24-22)~~( )

a. The use of the assistance will ensure compliance; (3-24-22)

b. The owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water

supply, or other procedures); and (3-24-22)( )

c. The Department determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with state and federal drinking water requirements over the long term; and achieve compliance. (3-24-22)( )

d. Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.), the Department conducts a review to determine whether this section applies to the system. (3-24-22)

009. INELIGIBLE SYSTEMS.

01. Basic Considerations. Systems not eligible for project loans are described in Subsection 009.02. (3-24-22)

02. Systems Not Eligible. The following systems will not be considered eligible for project loans: (3-24-22)

a**01. Ineligible Wastewater Systems**. Wastewater systems that are owned by individuals or for-profits; (3-24-22)( )

b**02. Ineligible Drinking Water Systems**. Drinking water systems in significant noncompliance with any requirement of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq.);. (3-24-22)( )

c. Drinking water systems under disapproval designation as outlined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or (3-24-22)

d**03. Delinquent Systems**. Systems delinquent in payment of fines, state revolving fund loans, penalties, or fee assessments due to DEQ the Department. (3-24-22)( )

010. FINANCIAL AND MANAGEMENT CAPABILITY ANALYSIS.
No loans shall will be awarded for projects unless the applicant has demonstrated and certified that it has the legal, technical, managerial, and financial capabilities as provided for in these rules to ensure construction, operation and maintenance, and to repay principal and, interest, which would and any fees that may be due on a loan. (3-24-22)( )

01. Information Needed. Before an application will be considered complete, the applicant must submit all necessary information on a form prescribed by the Department along with substantiating documentation. The information may include, but not be limited to, demographic information of the applicant, estimated construction or implementation costs, annual operating costs, and information regarding the financing of the project, including the legal debt limit of the applicant and the existence and amount of any outstanding bonds or other indebtedness which may affect the project Applicants are to submit a completed application for financial and management capability analysis as outlined in Section 040. (3-24-22)( )

02. Incorporated Nonprofit Applicants. (3-24-22)

a. In addition to all other information required to be submitted by these rules, an incorporated nonprofit applicant must demonstrate to the satisfaction of the Department by its articles of incorporation and/or bylaws, that the corporation is: (3-24-22)( )

i. The corporation is nNonprofit and lawfully incorporated pursuant to Chapter 3, Title 30, Idaho Code; (3-24-22)( )

ii. The corporation is aAuthorized to incur indebtedness to construct, improve or repair wastewater or drinking water facilities and/or implement water pollution control nonpoint source projects; (3-24-22)( )

iii. ~~The corporation is a~~Authorized to secure indebtedness by pledging corporation assets, including any revenues raised through a user charge system; ~~(3-24-22)~~( )

iv. ~~The corporation is c~~Capable of raising revenues sufficient to repay a loan~~.~~; and ~~(3-24-22)~~( )

~~i~~v. ~~The corporation e~~Exists either perpetually or for a period long enough to repay a project loan~~; and~~. ~~(3-24-22)~~( )

b. The Department may impose conditions on the making of a facility loan or water pollution control nonpoint source project to an incorporated nonprofit applicant ~~which~~ that are necessary to carry out the provisions of these rules and ~~the provisions of~~ Chapters 1, 36, and or 76, Title 39, Idaho Code. ~~(3-24-22)~~( )

03. Cost Allocation. An applicant proposing a wastewater, drinking water or nonpoint source project designed to serve two (2) or more entities must show how the costs will be allocated among the participating entities. Such applicants must provide an executed intermunicipal service agreement which, at a minimum, incorporates the following information: (3-24-22)

a. The basis upon which the costs are allocated; (3-24-22)

b. The formula by which the costs are allocated; and (3-24-22)

c. The manner in which the cost allocation system will be implemented. (3-24-22)

04. Waivers. The ~~requirement~~ provision in Subsection 010.03 may be waived by the Department if the applicant can demonstrate: ~~(3-24-22)~~( )

a. Such an agreement is already in place; (3-24-22)

b. There is documentation of a service relationship in the absence of a formal agreement; or (3-24-22)

c. An applicant exhibits sufficient financial strength to continue the project if one (1) or more of the applicants fails to participate. (3-24-22)

011. -- 019. (RESERVED)

020. PRIORITY RATING SYSTEM.

~~Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Limited loan funds are awarded to projects based on priority ratings and readiness to proceed. Projects are rated by the Department on a standard priority rating form using public health, sustainability, the condition of the existing system and water quality criteria.~~ ~~(3-24-22)~~

01. Purpose. A priority rating system ~~shall~~ will be utilized by the Department to annually allot available funds to wastewater and drinking water projects determined eligible for funding assistance under these rules. ~~(3-24-22)~~( )

~~**02. Wastewater Priority Rating**. The priority rating system shall be based on a numerical point system. Priority criteria shall contain the following points:~~ ~~(3-24-22)~~

~~**a.** Public health emergency or hazard certified by the Idaho Board of Environmental Quality, the Department, a District Health Department or by a District Board of Health -- one hundred and fifty (150) points.~~ ~~(3-24-22)~~

~~**b.** Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies at a wastewater facility) -- up to one hundred (100) points.~~ ~~(3-24-22)~~

~~**c.** Watershed restoration (e.g., implementation of best management practices or initiation of~~

~~construction at wastewater collection and treatment facilities as part of an approved total maximum daily load plan, implementation of nonpoint source management actions in protection of a threatened water, or is part of a special water quality effort) -- up to one hundred (100) points.~~ ~~(3-24-22)~~

~~**d.** Watershed protection from impacts (e.g., improvement of beneficial use(s) in a given water body, evidence of community support, or recognition of the special status of the affected water body) -- up to one hundred (100) points.~~ ~~(3-24-22)~~

~~**e.** Preventing impacts to uses (nonpoint source pollution projects) -- up to one hundred (100) points.~~ ~~(3-24-22)~~

~~**f.** Sustainability efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) -- up to fifty (50) points.~~ ~~(3-24-22)~~

~~**g.** Affordability (current system user charges exceed state affordability guidelines) -- ten (10) points.~~ ~~(3-24-22)~~

0~~3~~2. Priority Rating for Drinking Water ~~Priority Rating~~ Systems. The priority rating system ~~shall~~ will be based on a numerical points system. Priority criteria ~~shall~~ will contain the following points. ~~(3-24-22)~~( )

a. ~~Public Health Hazard.~~ Any documented condition that creates, or may create, a public health hazard or danger to the consumer's health, which may include any one (1) or more of the following, may be awarded a maximum of one hundred (100) points: ~~(3-24-22)~~( )

i. ~~Documented u~~Unresolved violations of the primary drinking water standards including maximum contaminant levels, action levels, and treatment techniques (to include maximum contaminant levels for acute and chronic ~~contaminates~~ contaminants); ~~(3-24-22)~~( )

ii. ~~Documented u~~Unresolved violations of pressure requirements; ~~(3-24-22)~~( )

iii. ~~Documented r~~Reduction in source capacity that impacts the system's ability to reliably serve water; ~~(3-24-22)~~( )

iv. ~~Documented s~~Significant deficiencies (e.g., documented in a sanitary survey) in the physical system that are causing the system to not reliably serve safe drinking water; or ~~(3-24-22)~~( )

v. ~~Documented u~~Unregulated contaminants ~~that have been~~ shown by EPA to be a risk to public health. ~~(3-24-22)~~( )

b. General Conditions of Existing Facilities. Points ~~shall~~ will be given based on deficiencies, which ~~would~~ may not constitute a public health hazard, for pumping, treating, and delivering drinking water - up to sixty (60) points. ~~(3-24-22)~~( )

c. Sustainability ~~E~~efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) - up to fifty (50) points. ~~(3-24-22)~~( )

d. ~~Consent Order, Compliance Agreement Schedule, or Court Order. Points shall be given if the system is operating under and in compliance with a Consent Order, Compliance Agreement Schedule, or Court Order and the proposed construction project will address the Consent Order, Compliance Agreement Schedule, or Court Order~~Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies of drinking water system) - up to thirty (30) points. ~~(3-24-22)~~( )

e. Incentives. Bonus points ~~shall~~ will be awarded to systems ~~that promote~~ including such things as source water protection, ~~conservation,~~ economy, proper operation and maintenance, and monitoring - up to ten (10)

points. ~~(3-24-22)~~( )

f. Affordability. ~~Points shall be given when current system user charges exceed state affordability guidelines - ten (10)~~ Systems that meet the state affordability criteria and are defined as a disadvantaged community - up to fifty (50) points. ~~(3-24-22)~~( )

03. Priority Rating for Wastewater Systems. The priority rating system will be based on a numerical point system. Priority criteria will contain the following points: ( )

a. Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies of a wastewater system) - up to one hundred (100) points. ( )

b. Watershed restoration (e.g., implementation of best management practices or initiation of construction at wastewater collection and treatment facilities as part of an approved total maximum daily load plan, implementation of nonpoint source management actions in protection of a threatened water, or is part of a special water quality effort) - up to one hundred (100) points. ( )

c. Watershed protection from impacts (e.g., improvement of beneficial use(s) in a given water body, evidence of community support, or recognition of the special status of the affected water body) - up to one hundred (100) points. ( )

d. Preventing impacts to uses (nonpoint source pollution projects) - up to one hundred (100) points. ( )

e. Sustainability efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) - up to fifty (50) points. ( )

f. Affordability. Systems that meet the state affordability criteria and are defined as a disadvantaged community – up to fifty (50) points. ( )

~~**04. Rating Forms**. Rating criteria for Section 020 set forth in rating forms that are available in the Handbooks.~~ ~~(3-24-22)~~

0~~5~~4. **Priority List**. A list ~~shall~~ will be developed from projects rated according to Section 020, submitted for public review and comment, and submitted to the Board for approval. ~~(3-24-22)~~( )

a. ~~Priority Reevaluation.~~ Whenever significant changes occur, which in the Department's judgment ~~would~~ may affect the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. ~~(3-24-22)~~( )

b. ~~Project Bypass.~~ A project that does not or will not meet the Department schedule that allows for timely utilization of loan funds may be bypassed, substituting in its place the next highest ranking project(s) that is ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. ~~(3-24-22)~~( )

0~~6~~5. **Amendment of a Priority List**. The Director may amend a ~~P~~priority ~~L~~list as set forth in Section 995 ~~of these rules~~. ~~(3-24-22)~~( )

021. DISADVANTAGED LOANS AND AFFORDABILITY.
~~Disadvantaged Loan Awards. In conjunction with the standard loans, t~~The Department may award disadvantaged loans to applicants deemed a disadvantaged community using the following criteria: ~~(3-24-22)~~( )

01. ~~Qualifying for a~~ Disadvantaged ~~Loan~~ Community. In order to qualify for a disadvantaged loan, ~~a loan applicant must have a residential user rate~~ A disadvantaged community may be designated by the Department as a Tier 1, Tier 2, or Tier 3 disadvantaged community if the following affordability criteria are met: ( )

a. Tier 1 disadvantaged community is considered disadvantaged if the community: ( )

i. Is at or below state median household income (MHI); or ( )

ii. Has an MHI equal to or less than one hundred twenty-five percent (125%) of the state MHI and the system meets one (1) of the following four (4) criteria: ( )

(1) Greater than the state poverty rate; ( )

(2) Greater than the state unemployment rate; ( )

(3) The population trend over the most recent five years shows a stagnant or decreasing trend; or ( )

(4) Annual user rate exceeds one and one-half percent of community's MHI. ( )

b. Tier 2 disadvantaged community is considered disadvantaged if the criteria in Subsection 021.01.a. is met and the annual user rates, based on all operating, maintenance, replacement, and debt service costs (both for the existing system and for upgrades of proposed alternative) for either drinking water or wastewater services ~~that~~ exceed two percent (2%) of the applicant community's MHI ~~median household income or, if the user rate is between one and one-half percent (1½%) and two percent (2%) of the applicant community's median household income, the community must also have: unemployment that exceeds the state average; and a decreasing population. The applicant shall agree to a thirty (30) year loan unless the design life of the project is documented to be less than thirty (30) years. The annual user rate would be based on all operating, maintenance, replacement, and debt service costs (both for the existing system and for upgrades). If the applicant's service area is not within the boundaries of a municipality, or if the applicant's service area's median household income is not consistent with the municipality as a whole, the applicant may use the census data for the county in which it is located or may use a representative survey, conducted by a Department approved, objective third party, to verify the median household income of the applicant's service area~~. ~~(3-24-22)~~( )

c. Tier 3 disadvantaged community is considered disadvantaged if the criteria in Subsections 021.01.a. and 021.01.b. are met and the MHI of the applicant's community is less than eight tenths (0.8) the current statewide MHI. ( )

d. Special conditions and adjustments may include the following. ( )

i. If the applicant's service area is not within the boundaries of a municipality, or if the applicant's service area's MHI is not consistent with the municipality as a whole, the applicant may use the census data for the county or the most representative area in which it is located or may use a representative survey, conducted by a Department approved, objective third party, to verify the MHI of the applicant's service area. ( )

ii. The affordability criteria may be adjusted by the Department on a case-by-case basis if there is a demonstration of special conditions and if approved by the Board as part of the Intended Use Plan. ( )

02. ~~Adjustment of Loan Terms~~Disadvantage Loans. ~~DEQ will equally apportion funds available for principal forgiveness to all prospective disadvantaged loan recipients. For wastewater loan funding, the length of the repayment period is set at the borrower's discretion, up to the maximum repayment period of thirty (30) years. For drinking water loan funding, extensions of repayment term to thirty (30) years are only allowed for disadvantaged applicants. Consistent with achieving user rates as per the criteria set forth in Section 021, and where possible with available funds, loan terms may be adjusted in the following order: decreasing the interest rate and providing principal forgiveness~~ The Department will prioritize loan modifications to Tier 3 disadvantaged communities, then Tier 2 and Tier 1 disadvantaged communities such that the loan modifications do not result in user rates below two percent (2%) of the MHI. ~~(3-24-22)~~( )

a. A disadvantaged loan may be a thirty (30) year loan unless the design life of the project is documented to be less than thirty (30) years. For wastewater loan funding, the length of the repayment period is set at

the loan recipient's discretion, up to the maximum repayment period of thirty (30) years. ( )

~~a~~**b.** ~~Decreasing Interest Rate.~~ The ~~loan~~ interest rate may be reduced from the rate established by the ~~Director for standard loans~~ Department to a rate that results in an annual user rate ~~equaling the criteria set forth in Section 021. The interest rate may be reduced to as low as zero percent (0%)~~ equal to two percent (2%) of the MHI. If the annual user rate still exceeds two percent (2%) of the MHI with the rate reduction, then the community may be provided with principal forgiveness. ~~(3-24-22)~~( )

~~**b.** Principal Forgiveness. If even at zero percent (0%) interest, the annual user rate per residential user still exceeds the criteria set forth in Section 021, then the principal that causes the user charge to exceed the criteria set forth in Section 021 may be partially forgiven or reduced. The principal reduction cannot exceed fifty percent (50%) of the total loan, unless the user rate will exceed $100 per month (in which case the principal reduction may exceed fifty percent (50%). Principal forgiveness terms may be revised (from initial estimates established in the annual Intended Use Plan) based upon final construction costs, such that loan terms do not result in user rates that are below the criteria set forth in Section 021.~~ ~~(3-24-22)~~

c. Principal forgiveness will be allocated proportionally among prioritized disadvantaged communities in the Intended Use Plan. The principal forgiveness may be revised from the initial estimates in the Intended Use Plan based upon review of the total indebtedness. ( )

d. The Department may make adjustments to the disadvantaged loan terms on a case-by-case basis if special conditions exist and are outlined in the Intended Use Plan for Board approval. ( )

022. SUPPLEMENTAL GRANTS.
In conjunction with loans, the Department may award ~~state funded~~ supplemental grants ~~not to exceed ninety percent (90%) of total eligible costs, to loan recipients in the following manner:~~ as determined by Director and Board approval. ~~(3-24-22)~~( )

~~**01. Projects Not Funded by Loans.** Planning and design projects may receive grant assistance up to ninety percent (90%) funding of eligible costs not funded by a loan; and~~ ~~(3-24-22)~~

~~**02. Costs in Excess of Financial Ability.**~~ ~~(3-24-22)~~

~~**a.** Loan recipients may receive supplemental grant assistance for eligible costs that exceed the amount a loan recipient is able to pay. In order to qualify for a supplemental grant, a loan recipient must have the following:~~ ~~(3-24-22)~~

~~i. An annual user rate per household which exceeds one and one-half percent (1-1/2%) of the median household income from the most recent census data. If the loan recipient's service area is not within the boundaries of a municipality, the loan recipient may use the census data for the county in which it is located or may use an income survey approved by the Department; and~~ ~~(3-24-22)~~

~~ii. The annual user rate includes all operating, maintenance, replacement and debt service costs, both for the existing system and for upgrades.~~ ~~(3-24-22)~~

~~**b.** If a loan recipient meets the requirement of Section 022, a supplemental grant may be made for the amount of the project that causes the annual user rate for wastewater service per household to exceed one and one-half percent (1-1/2%) of the median household income, subject to available funds.~~ ~~(3-24-22)~~

023. -- 029. (RESERVED)

030. PROJECT SCOPE AND FUNDING.
Loan funds awarded under this program may be used to prepare a facility planning document which identifies the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," the Safe Drinking Water Act, 42 U.S.C., Sections 300j et seq., IDAPA 58.01.16, "Wastewater Rules," and the Clean Water Act, 33 U.S.C. Sections 1381 et seq., and which is approvable by the Department. Loan funds may also be used for design and construction of the chosen alternative and project

specific efforts committed to in the Letter of Interest submitted for the project. ~~(3-24-22)~~( )

01. Nonpoint Source Implementation Funding. Eligible nonpoint source water pollution control projects may be funded when all of the following criteria are met: (3-24-22)

a. Consistent with and implements the Idaho Nonpoint Source Management Plan. (3-24-22)

b. Data is used to substantiate a nonpoint source pollutant problem or issue exists and is described or directly referenced. (3-24-22)

c. Completed project implementation plan or work plan. (3-24-22)

d. Project commitment documentation through demonstrated ability for loan repayment. (3-24-22)

e. The project includes documentation that the project owner(s), manager(s), or the sponsoring agency will maintain the project for the life of the project (e.g., Maintenance Agreement). (3-24-22)

f. The project provides adequate tracking and evaluation of the effectiveness of the water quality improvements being funded by either the project owner/manager or the sponsoring agency throughout the life of the project. (3-24-22)

g. The project demonstrates nexus/benefit to municipality through a letter of support from one (1) or more affected municipalities. (3-24-22)

02. Facility Funding. ( )

a. Projects may ~~be funded in steps~~ include: ~~(3-24-22)~~( )

~~a~~i. ~~Step 1.~~ Planning document prepared in accordance with the Handbook~~.~~; ~~(3-24-22)~~( )

~~b~~ii. ~~Step 2.~~ Design which includes the preparation of the detailed engineering plans and specifications necessary for the bidding and construction of the project~~.~~; ~~(3-24-22)~~( )

~~c~~iii. ~~Step 3.~~ Construction, which includes bidding and actual construction of the project~~.~~ or ~~(3-24-22)~~( )

~~d~~iv. ~~Step 4.~~ A combination of ~~Step 2 and Step 3~~ planning, design and construction listed above. ~~(3-24-22)~~( )

~~e~~**b.** ~~Combination Step Funding. Projects may be funded in any combination of the steps with the approval of the Department. Separate loans may be awarded for Step 1 or Step 2 projects. If a Step 1 or Step 2 project proceeds to construction, either the Step 1 or Step 2 loan, or both, may be consolidated with the Step 3 loan.~~ If a project does not proceed to construction, ~~outstanding Step 1 and Step 2~~ loans for planning and design will be amortized and a repayment schedule prepared by the Department. ~~(3-24-22)~~( )

~~f~~**c.** ~~Cost Effective Requirement. Step 2, Step 3 or Step 4 l~~Loans ~~shall~~ for construction will not be awarded until a final cost effective and environmentally sound alternative has been selected ~~by~~ in the ~~Step 1~~ planning document and approved by the Department. ( )

i. If the planning document has not been completed pursuant to IDAPA 58.01.22, "Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities," then the loan recipient ~~shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The loan recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the loan recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the loan recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected~~

~~by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document will be prepared~~ must complete the following~~.~~: ~~(3-24-22)~~( )

(1) Public comment period is held after alternatives have been developed and the Department has approved the draft planning document; ( )

(2) Provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the grant recipient during the public comment period; ( )

(3) Present the draft planning document with an explanation of the alternatives identified; ( )

(4) Consider public comments received from those affected by the proposed project; and ( )

ii. After the public meeting and public comment period, the final alternative is selected and the state environmental review process completed. ( )

~~g~~**d.** ~~Funding For Wastewater Reserve Capacity.~~ Funding for reserve capacity of a wastewater treatment ~~plant~~ facility will not exceed a twenty (20) year population growth and funding for reserve capacity of ~~an interceptor~~ a wastewater collection system will not exceed a forty (40) year population growth as determined by the Department. ~~(3-24-22)~~( )

~~h~~**e.** ~~Funding for Drinking Water Reserve Capacity.~~ Funding for reserve capacity of a drinking water system ~~shall~~ will not exceed a twenty (20) year population growth, except that distribution and transmission lines which may be planned for a forty (40) year useful life. ~~(3-24-22)~~( )

03. Professional Services. The engineering firm selected must meet the following qualifications at a minimum: ( )

a. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; ( )

b. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and ( )

c. Be covered by professional liability insurance in accordance with Section 050. ( )

031. LIMITATION OF PRELOAN ENGINEERING REVIEWS.
Preloan engineering documents prepared by consulting engineers will be reviewed by Department staff only when ~~accompanied by a certificate that~~ the consulting engineer carries professional liability insurance in accordance with Section 050. ~~(3-24-22)~~( )

032. LOAN FEE.

01. Loan Fee. The Department may elect to impose a loan fee when necessary to offset the costs of administering the loan program, to provide planning assistance, or to otherwise facilitate the operation of the loan efforts. The loan fee ~~shall~~ will not exceed one percent (1%) of the unpaid balance of the loan at the time each loan payment is due. ~~(3-24-22)~~( )

02. Effect on Loan Interest Rate. The loan interest rate, as described in Section 050, will be reduced by the corresponding percentage of the loan fee. (3-24-22)

03. Payment of Loan Fee. The loan fee ~~shall~~ will be due and payable concurrently with scheduled loan principal and interest repayments over the repayment period. ~~(3-24-22)~~( )

033. -- 039. (RESERVED)

040. LOAN APPLICATION AND REVIEW.

01. Submission of Application. Those eligible systems that received high priority ranking and are ready to proceed ~~shall~~ will be invited to ~~submit an application~~ apply. The applicant ~~shall~~ must submit to the Department, a completed application on a form as prescribed by the Department. ~~(3-24-22)~~( )

02. Application ~~Requirements~~. Applications ~~shall~~ must contain the following documentation, as applicable: ~~(3-24-22)~~( )

a. The construction funding application and all the accompanying documentation requested. This information may include, but is not limited to, financial control policy, managerial policies, financial statements, annual operating costs, and information regarding the financing, including the legal debt limit of the applicant, and the existence and amount of any outstanding bonds or other funding which may affect the project; ( )

~~a~~b. ~~A lawful~~If applicable, a resolution passed by the governing body authorizing an elected official or officer of the applicant to execute a loan contract and sign subsequent loan disbursement requests; ~~(3-24-22)~~( )

~~b~~c. Contracts for engineering or other technical services and the description of costs and tasks set forth therein ~~shall~~ must be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 041; ~~(3-24-22)~~( )

~~**c.** Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum: (3-24-22)~~

~~i. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; (3-24-22)~~

~~ii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (3-24-22)~~

~~iii. Be covered by professional liability insurance in accordance with Section 050 of these rules. A certification of liability insurance shall be included in the application; (3-24-22)~~

d. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 041; (3-24-22)

e. A demonstration that the obligation to pay the costs for which funding is requested is the result or will be the result of the applicant's compliance with applicable requirements for competitive bidding ~~requirements~~ for construction and ~~requirements for~~ professional service contracts, including without limitation, the ~~requirements set forth~~ provisions in Sections 67-2801 et seq., 67-2320, ~~59-1026,~~ and 42-3212, Idaho Code; ~~(3-24-22)~~( )

~~**f.** Step 1 -- Scope of work describing the work tasks to be performed in the preparation of the planning document if required in accordance with Section 030, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks; (3-24-22)~~

~~**g.** Step 2 -- Design, or Step 4 -- Design and Construction: (3-24-22)~~

~~i. Planning document, including a final environmental document and decision in accordance with Section 042; (3-24-22)~~

~~ii. Financial and management capability analysis as provided in Section 010; and (3-24-22)~~

~~iii~~**f.** Intermunicipal service agreements between all entities within the scope of the project, if applicable; (3-24-22)

~~**h.** Step 3 -- Construction: (3-24-22)~~

~~i~~g. Documented evidence of all necessary easements and land acquisition, if applicable; ~~(3-24-22)~~( )

~~ii. Biddable plans and specifications of the approved wastewater treatment facility alternative;~~ ~~(3-24-22)~~

~~iii. A plan of operation and project schedule;~~ ~~(3-24-22)~~

~~iv. A user charge system, sewer use or water system protection ordinance and financial management system; and~~ ~~(3-24-22)~~

~~v. A staffing plan and budget;~~ ~~(3-24-22)~~

~~i. Step 4 -- Design and Construction. Loan applicants must submit all documentation specified in Section 040 prior to advertising for bids on construction contracts;~~ ~~(3-24-22)~~

~~j~~h. Nonpoint ~~S~~source ~~I~~implementation ~~F~~funding: ~~(3-24-22)~~( )

i. Information demonstrating that the project is consistent with and implements the Idaho Nonpoint Source Management Plan; (3-24-22)

ii. Data that substantiates a nonpoint source pollution problem or issue exists, and how it will be addressed by the project; ~~(3-24-22)~~( )

iii. A project implementation plan or workplan; (3-24-22)

iv. Project commitment documentation that demonstrates the ability for loan repayment; (3-24-22)

v. Documentation that the project owner, manager or sponsoring agency will maintain the project for the life of the project; (3-24-22)

vi. A demonstration that there will be adequate tracking and evaluation of the effectiveness of the water quality improvements being funded by either the project owner/manager or the sponsoring agency throughout the life of the project; and (3-24-22)

vii. A description of the nexus/benefit to a municipality and a letter of support from one (1) or more affected municipalities, if applicable. ~~(3-24-22)~~( )

03. Determination of Completeness of Application. The Department will review the application to determine whether it includes all of the information ~~required by~~ listed in Section 040. ~~(3-24-22)~~( )

04. Notification of Incompleteness of Application. ~~Written n~~Notification if an application is incomplete, including an explanation of missing documentation will be sent to the applicant. The applicant may provide the missing documentation. ~~(3-24-22)~~( )

05. Reapplication for Loan. The action of disapproving, recalling or terminating a loan in no way precludes or limits ~~the former~~ an applicant from reapplying for another loan when the project deficiencies are resolved and project readiness is secured. ~~(3-24-22)~~( )

041. DETERMINATION OF ELIGIBILITY OF COSTS.
The Department will review the application, including ~~any~~ necessary contracts ~~required~~ to be submitted with the application, to determine whether the costs are eligible costs for funding. ~~(3-24-22)~~( )

01. Eligible Costs. Eligible costs are those determined by the Department to be: (3-24-22)

a. Necessary ~~costs~~; ~~(3-24-22)~~( )

b. Reasonable ~~costs~~; and ~~(3-24-22)~~( )

c. ~~Costs that a~~Are not ineligible as described in Section 041. ~~(3-24-22)~~( )

02. Necessary Costs. The Department will determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the ~~plan of study for facility~~ planning documents, the project implementation plan or work plan for nonpoint source projects, and any other relevant information in the application that describes the scope of the project to be funded. ~~(3-24-22)~~( )

03. Reasonable Costs. Costs will be determined by the Department to be reasonable if the obligation to pay the costs is the result of or will be the result of the applicant's compliance with applicable requirements for competitive bidding ~~requirements~~ for construction and ~~requirements for~~ professional service contracts, including without limitation, the ~~requirements set forth~~ provisions in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. ~~(3-24-22)~~( )

04. Examples of Costs That May Be Eligible. Examples of costs that may be eligible, if determined necessary~~,~~ and reasonable ~~and not ineligible costs include~~: ~~(3-24-22)~~( )

a. Costs of salaries, benefits, and expendable material the applicant incurs in the project except ordinary operating expenses of local government, such as salaries and expenses of mayors, city council members, attorneys, commissioners, board members, or managers; (3-24-22)

b. Costs under construction contracts bid and executed in compliance with state public works construction laws; (3-24-22)

c. Professional and consulting services utilizing a lump sum contract, a negotiated hourly rate contract, a time and materials contract, or cost plus a fixed fee contract; (3-24-22)

d. Planning directly related to the projects; (3-24-22)

e. System evaluations; (3-24-22)

f. Financial and management capability analysis; (3-24-22)

g. Preparation of construction drawings, specifications, estimates, and construction contract documents; (3-24-22)

h. Landscaping; (3-24-22)

i. Removal and relocation or replacement of utilities for which the applicant is legally obligated to pay; (3-24-22)

j. Material acquired, consumed, or expended specifically for the project; (3-24-22)

k. A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations; (3-24-22)

l. Preparation of an operation and maintenance manual; (3-24-22)

~~**m.** Preparation of a plan of operation;~~ ~~(3-24-22)~~

~~**n**~~**m.** Start-up services; (3-24-22)

~~**o**~~**n.** Project identification signs; (3-24-22)

~~**p**~~**o.** Public participation for alternative selection; (3-24-22)

~~q~~p. Development of user charge and financial management systems; (3-24-22)

~~r~~q. Development of sewer use or water system protection ordinance; (3-24-22)

~~s~~r. Staffing plans and budget development; (3-24-22)

~~t~~s. Certain direct and other costs as determined eligible by the Department; (3-24-22)

~~u~~t. Costs of complying with the ~~Federal Water Pollution Control Act (P.L. 92-500)~~ Clean Water Act as amended, 33 USC Section 1251 et seq. and the Safe Drinking Water Act (42 U.S.C. Section 300j et seq, loan requirements applied to specific projects; and ~~(3-24-22)~~( )

~~v~~u. Site acquisition costs, including right of way, plant site, wastewater land application sites and sludge disposal areas. Land purchase ~~shall~~ must be from a willing seller. ~~(3-24-22)~~( )

05. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to: (3-24-22)

a. Basin or area wide planning not directly related to the project; (3-24-22)

b. Bonus payments not legally required for completion of construction before a contractual completion date; (3-24-22)

c. Personal injury compensation or damages arising out of the project; (3-24-22)

d. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (3-24-22)

e. Costs outside the scope of the approved project; (3-24-22)

f. Ordinary operating expenses of local government, such as salaries and expenses of mayors, city council members, attorneys, commissioners, board members, or managers; (3-24-22)

g. Construction of privately owned wastewater ~~treatment facilities~~ systems; ~~(3-24-22)~~( )

h. Cost of land in excess of that needed for the proposed project; (3-24-22)

i. Cost of refinancing existing indebtedness; (3-24-22)

j. Engineering costs incurred without professional liability insurance; (3-24-22)

k. Costs of condemnation; (3-24-22)

l. Reserve funds; ~~and~~ ~~(3-24-22)~~( )

m. All costs related to assessment, defense and settlement of disputes; and ( )

~~m~~n. Costs incurred prior to acceptance of the loan unless specifically approved in writing as eligible pre-award costs by the Department. (3-24-22)

06. Notification Regarding Ineligible Costs. Prior to providing a loan offer, the Department will notify the applicant if certain costs are not eligible for funding and the reasons for the Department's determination. ~~If such costs are included in the engineering contract, the Department will also provide notification to the engineer.~~ The applicant may provide the Department with additional information in response to the notice. ~~(3-24-22)~~( )

07. Eligible Costs and the Loan Offer. The loan offer ~~shall~~ will reflect those costs determined by the

Department to be eligible costs. The loan offer, however, may include estimates of some eligible costs ~~that have not yet been set~~, such as construction costs. Actual eligible costs may differ from ~~such~~ estimated costs set forth in the loan offer. In addition, loan disbursements may be increased or decreased if eligible costs are modified as provided in Section 060. ~~(3-24-22)~~( )

042. ENVIRONMENTAL REVIEW.

01. Environmental Documentation. Guidance on how to complete an environmental review is found in the Handbook. ~~For eligible projects funded solely with non-federal funds (e.g. State Revolving Loan Fund repayments), see Section 042.~~ For eligible projects, the loan recipient ~~shall~~ must complete an environmental review ~~as part of and in conjunction with a planning document~~. Projects funded exclusively as nonpoint or estuary management projects may not be required to complete an environmental review. The loan recipient ~~shall~~ must consult with the Department at an early stage in the loan application process to determine the ~~required~~ necessary level of environmental review. Based on review of existing information, and assessment of environmental impacts, the loan recipient ~~shall~~ must complete one (1) of the following per the Department's instruction: ~~(3-24-22)~~( )

a. ~~Submit a request for~~ Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; ~~(3-24-22)~~( )

b. ~~Prepare an~~ Environmental Information Document (EID) in a format specified by the Department; or ~~(3-24-22)~~( )

c. ~~Prepare an~~ Environmental Impact Statement (EIS) in a format specified by the Department. ~~(3-24-22)~~( )

02. ~~Categorical Exclusions~~CE. ~~If the loan recipient requests a CE, t~~ The Department will ~~review the request and, based upon the supporting documentation,~~ take one (1) of the following actions: ~~(3-24-22)~~( )

a. Determine if the action is consistent with categories eligible for exclusion whereupon the Department will issue a notice of CE from substantive environmental review. Once the CE is granted for the selected alternative(s), the Department will publish a notice of CE in a local newspaper in the geographical area of the proposed project to inform the public of this action, following which the planning document can be approved and the loan award can proceed; or ~~(3-24-22)~~( )

b. Determine if the action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If a CE is not issued, the Department will notify the loan recipient to prepare an EID. (3-24-22)

03. ~~Environmental Information Document Requirements~~EID. When an EID is required, the loan recipient ~~shall~~ must prepare the EID in accordance with the following ~~Department procedures~~: ~~(3-24-22)~~( )

a. Various laws and executive orders related to environmentally sensitive resources ~~shall~~ must be considered as the EID is prepared~~.~~ and ~~A~~appropriate state and federal agencies ~~shall be~~ consulted regarding these laws and executive orders; ~~(3-24-22)~~( )

b. A full range of relevant impacts, both direct and indirect, of the proposed project ~~shall~~ must be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that ~~shall~~ will cause irreversible or irretrievable commitment of resources; and ~~(3-24-22)~~( )

c. The Department will review the draft EID and either request additional information about one (1) or more potential impacts~~,~~ or draft a "finding of no significant impact" (FONSI). ~~(3-24-22)~~( )

04. ~~Final Finding of No Significant Impact~~FONSI. The Department will publish the draft FONSI in a local newspaper in the geographical area of the proposed project and will allow a minimum thirty (30) day public comment period. Following the required period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI will become final. The Department will assess the effectiveness and feasibility of the mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI ~~and~~

~~approval of the planning document~~. ~~(3-24-22)~~( )

05. ~~**Environmental Impact Statement (EIS) Requirements**~~**EIS**. If an ~~(~~EIS~~)~~ is required, the loan recipient ~~shall~~ must: ~~(3-24-22)~~( )

a. Consult with all affected federal and state agencies, and other interested parties, to determine the required scope of the document; (3-24-22)

b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (3-24-22)

c. Conduct a public meeting which may be in conjunction with a planning document meeting; and (3-24-22)

d. Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (3-24-22)

06. Final EIS. Upon completion of the EIS by the loan recipient and approval by the Department of all requirements listed in Section 042, the Department will issue a record of decision, documenting the mitigation measures to be required of the loan recipient. The loan agreement can be completed once the final EIS has been approved by the Department. (3-24-22)

07. Partitioning the Environmental Review. Under certain circumstances, the building of a component/partition of a system may be justified in advance of all environmental review requirements for the remainder of the system. The Department will approve partitioning the environment review in accordance with established procedures. ~~(3-24-22)~~( )

08. Use of Environmental Reviews Conducted by Other Agencies. If environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public participation process of the other agency. (3-24-22)

09. Validity of Review. Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a loan application is received for a project with an environmental review which is more than five (5) years old, the Department will reevaluate the project, environmental conditions and public views and will: (3-24-22)

a. Reaffirm the earlier decision; or (3-24-22)

b. ~~Require~~Request supplemental information to the earlier EIS, EID, or request for CE. Based upon a review of the updated document, the Department will issue and distribute a revised notice of CE, FONSI, or record of decision. ~~(3-24-22)~~( )

10. Exemption From Review. Loan projects may be exempt from certain federal crosscutting authorities at the discretion of the Department as long as in any given year the annual amount of loans, equal to the most recent federal capitalization grant, complies with all of the federal crosscutting authorities. (3-24-22)

043. -- 049. (RESERVED)

050. LOAN OFFER AND ACCEPTANCE.

01. Loan Offer. Loan offers will be delivered to successful applicants by representatives of the Department ~~or by registered mail~~. ~~(3-24-22)~~( )

02. Acceptance of Loan Offer. Applicants have sixty (60) days in which to officially accept the loan offer on prescribed forms furnished by the Department. The sixty (60) day acceptance period commences from the date indicated on the loan offer notice. If the applicant does not accept the loan offer within the sixty (60) day period the loan funds may be offered to the next project of priority. (3-24-22)

03. Acceptance Executed as a Contract Agreement. Upon signature by the Director and upon signature by the authorized representative of the eligible applicant, the loan offer ~~shall~~ will become a contract. Upon accepting a loan offer, an eligible applicant becomes a loan recipient. The disbursement of funds pursuant to a loan contract is subject to a finding by the Director that the loan recipient has complied with all loan contract conditions and has prudently managed the project. The Director may, as a condition of disbursement, require that a loan recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with loan funds. No third party ~~shall~~ may acquire any rights against the state or its employees from a loan contract. ~~(3-24-22)~~( )

04. Estimate of Reasonable Cost. All loan contracts will include the eligible costs of the project. Some eligible costs may be estimated, and disbursements may be increased or decreased as provided in Section 060. ~~(3-24-22)~~( )

05. Terms of Loan Offers. The loan offer ~~shall~~ will contain such terms as are prescribed by the Department including~~,~~ but not limited to: ~~(3-24-22)~~( )

a. Terms consistent with these rules, the project ~~step~~ to be funded under the loan offer, and Title 39, Chapter 36, Idaho Code; ~~(3-24-22)~~( )

b. Special clauses as determined necessary by the Department for the successful investigation, design, construction and management of the project; (3-24-22)

c. Terms consistent with applicable state and federal laws pertaining to planning documents, design, and construction, including the Public Works Contractors License Act and the Public Contracts Bond Act, Chapter 19, Title 54, Idaho Code, and the federal Clean Water Act and Safe Drinking Water Act requirements for projects funded with loan moneys of federal origin; (3-24-22)

d. Requirement for the prime engineering firm(s) and their principals retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors and omissions of a professional nature. The total aggregate of the engineer's professional liability insurance ~~shall~~ must be one hundred thousand dollars ($100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project phases, whether or not such services or phases are state funded, until the certification of project performance is accepted by the Department~~;~~. The required professional liability insurance amount may be reduced if a written request is submitted for the Department's review and approval demonstrating that the reduced coverage will adequately protect public funds and the project from financial risk associated with engineering errors or omissions. The request must include: ~~(3-24-22)~~( )

i. A justification for reduced coverage; and ( )

ii. An alternative insurance or coverage mechanisms, if applicable, demonstrating other financial protections that provide an equivalent or greater level of coverage; ( )

e. The project ~~shall~~ must be bid, contracted, and constructed according to ~~the current edition of Idaho Standards for Public Works Construction unless the loan recipient has approved and adopted~~ acceptable public works construction standards approved by the Department, which may include the current edition of Idaho Standards for Public Works Construction and the Handbook referenced in Section 004 or other acceptable public works construction standards; ~~(3-24-22)~~( )

f. The loan interest rate for loans made during the state fiscal year beginning July 1 will be established by the Director. The interest rate will be a fixed rate in effect for the life of the loan. The rate may equal but ~~shall~~ not exceed the current market rate; ~~(3-24-22)~~( )

g. The loan fee pursuant to Section 032; (3-24-22)

h. All loans must be fully amortized within a period not to exceed thirty (30) years after project completion. The loan contract will be appended with a schedule of loan repayments stating the due dates and the

amount due upon project completion. The loan recipient may elect for either a schedule of semi-annual or annual repayments at the time the loan is finalized; and (3-24-22)

i. Repayment default will occur when a scheduled loan repayment is thirty (30) days past due. If default occurs, the Department may invoke all available remedies included but not limited to appropriate loan contract provisions and/or bond covenants. ~~(3-24-22)~~( )

051. ACCOUNTING AND AUDITING PROCEDURES.
Loan recipients must maintain project accounts in accordance with generally accepted accounting principles. Projects may be audited on an annual basis according to government auditing standards issued by the U.S. Governmental Accountability Office. (3-24-22)

052. -- 059. (RESERVED)

060. DISBURSEMENTS.

01. Loan Disbursements. Requests to the Department for actual disbursement of loan proceeds will be made by the loan recipient on forms provided by the Department. (3-24-22)

02. Loan Increases. An increase in the loan amount as a result of an increase in eligible project costs ~~will~~ may be considered, provided funds are available. Documentation supporting the need for an increase must be submitted to the Department for approval prior to incurring any costs above the eligible cost ceiling. ~~(3-24-22)~~( )

03. Loan Decreases. If the actual eligible cost is determined by the Department to be lower than the estimated eligible cost the loan amount ~~will~~ may be reduced proportionately. ~~(3-24-22)~~( )

04. Project Review to Determine Final Eligible Costs. A project review by the Department or a Department designee will determine the final eligible costs. (3-24-22)

05. Final Disbursement. The final loan disbursement consisting of five percent (5%) of the total loan amount ~~shall~~ will not be made until final inspection, final review, and a final loan repayment schedule have been completed. ~~(3-24-22)~~( )

061. LOAN CONSOLIDATION.
If two (2) or more loans are consolidated into one (1) loan, the interest rate for the consolidated loan will be at the same rate as the loan being consolidated with the lowest interest rate. (3-24-22)

062. -- 079. (RESERVED)

080. SUSPENSION OR TERMINATION OF LOAN CONTRACTS.

01. Causes. The Director may suspend or terminate any loan contract prior to final disbursement for failure by the loan recipient or its agents, including engineering firm(s), contractor(s) or subcontractor(s) to perform. A loan contract may be suspended or terminated for good cause including, but not limited to, the following: (3-24-22)

a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; or (3-24-22)

b. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years' imprisonment or any crime involving or affecting the project; or (3-24-22)

c. Violation(s) of any term of the loan contract; or (3-24-22)

d. Any willful or serious failure to perform within the scope of the project, ~~plan of operation~~ and project schedule, terms of engineering subagreements, or contracts for construction; or ~~(3-24-22)~~( )

e. Debarment of a contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (3-24-22)

02. Notice. The Director will notify the loan recipient in writing and by certified mail of the intent to suspend or terminate the loan contract. The notice of intent ~~shall~~ will state: ~~(3-24-22)~~( )

a. Specific acts or omissions which form the basis for suspension or termination; and (3-24-22)

b. That the loan recipient may be entitled to appeal the suspension or termination pursuant to ~~IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records."~~ Section 003. ~~(3-24-22)~~( )

~~**03. Determination**. A determination will be made by the Board pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." (3-24-22)~~

043. Reinstatement of Suspended Loan. Upon written request by the loan recipient with evidence that the cause~~s~~(s) for suspension no longer exists, the Director may, if funds are available reinstate the loan contract. If a suspended loan contract is not reinstated, the loan will be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. ~~(3-24-22)~~( )

054. Reinstatement of Terminated Loan. No terminated loan ~~shall~~ will be reinstated. Terminated loans will be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. ~~(3-24-22)~~( )

081. -- 994. (RESERVED)

995. WAIVER~~S OF REQUIREMENTS AND AMENDMENT OF PRIORITY LIST~~.
The Director may amend the ~~P~~priority ~~L~~list and grant a waiver from the ~~requirements~~ provisions of these rules on a case-by-case basis upon full demonstration ~~by the loan recipient requesting the waiver~~ that the following conditions exist. ~~See also Section 020 of these rules.~~ ~~(3-24-22)~~( )

~~**01. Health Hazard**. A significant public health hazard exists; (3-24-22)~~

~~**02. Water Contamination**. A significant water contamination problem exists; (3-24-22)~~

~~**03. Pollution**. A significant point source of pollution exists causing a violation of Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards"; or (3-24-22)~~

01. Public Health Protection. The requirement is not necessary for the protection of public health and the environment and does not affect the priority ranking status of the project. ( )

042. Affordability Criteria Exceeded. The project will exceed affordability criteria adopted by the Department in the event the waiver is not granted. (3-24-22)

996. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.16 – WASTEWATER RULES

DOCKET NO. 58-0116-2501 (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. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 17, 2025. If no such written request is received, a public hearing will not be held. One public scoping meeting was held before initiation of negotiated rulemaking, and three public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with Executive Order No. 2020-01, Zero-Based Regulation (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 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: Link. This is one of the DEQ rule chapters up for review in 2025. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

DEQ is proposing updates to improve clarity, streamline compliance, and align wastewater rules with best practices in public health and environmental protection. The changes include revisions to operator requirements, such as licensure, and demonstrating technical, financial, and managerial capacity. Updated standards, including U.S. Environmental Protection Agency guidelines and engineering best practices, will ensure consistency with state and national expectations.

Definitions of key terms will be clarified, and facility planning and design standards will be updated to address municipal wastewater systems, pipelines, and treatment facilities, focusing on efficiency and environmental protection. The revisions also propose to improve rules for system operations and maintenance, including emergency preparedness and record-keeping, while simplifying the process for reviewing and approving plans and reports for both municipal and nonmunicipal systems.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho State Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution.

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: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On March 5, 2025, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/wastewater-docket-no-58-0116-2501/.

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.

The incorporation of Idaho Standards for Public Works Construction (ISPWC) Sections 401.2.9, 401.3.4, 401.3.6, 501.3.4, and 505.3.3 ensures that Idaho's wastewater infrastructure is designed and constructed to consistent, modern standards. These provisions address critical aspects of system reliability—such as pipe joint restraint, thrust blocking, leakage testing, and bedding requirements—and reflect current best practices in utility construction. They establish clear, enforceable expectations for performance and inspection, reduce the risk of infiltration and failure, and support long-term durability of public investments. Incorporating these sections strengthens technical alignment between state and local infrastructure and improves oversight during design review and construction. Information for obtaining a copy of the incorporated material is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/wastewater-docket-no-58-0116-2501/

IDAHO CODE SECTION 39-107D STATEMENT: This rule proposes to regulate an activity not regulated by the federal government. Per Section 39-107D, Idaho Code, DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations, or which propose to regulate an activity not regulated by the federal government. There is no federal law or regulation that is comparable to plan and specification review and facility standard provisions set forth in the Wastewater Rules. Therefore, the changes to the rules are not broader in scope or more stringent than federal law or regulations.

Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." The Wastewater Rules address the review and approval of plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval. This is not an activity regulated by the federal government. Therefore, Section 39-107D, Idaho Code, applies.

Section 39-107D(3), Idaho Code, provides that any rule subject to 39-107D that proposes a standard necessary to protect human health and the environment must also include in the rulemaking record and in the notice of rulemaking additional information. This additional information includes any estimates of risk accomplished, identification of populations or receptors addressed by any estimates, and other information related to an estimation of risk. The Wastewater Rules include facility and design standards which are intended to protect human health and the environment. The standards, however, are for the design and construction of wastewater systems. The rules are not based upon any express estimate of analysis of risk to public health or the environment.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Mary Anne Nelson at mary.anne.nelson@deq.idaho.gov or (208) 373-0291.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before October 1, 2025. Submit written comments to the undersigned.

Mary Anne Nelson
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
mary.anne.nelson@deq.idaho.gov

Dated this 3rd day of September, 2025.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208)373-0165
diane.cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0116-2501
(ZBR Chapter Rewrite.)

58.01.16 – WASTEWATER RULES

000. LEGAL AUTHORITY.
~~Under~~ Chapters 1 and 36, Title 39, Idaho Code~~, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules~~. ~~(3-31-22)~~( )

001. ~~TITLE AND~~ SCOPE.

~~01.~~ ~~Title~~. ~~These rules are titled IDAPA 58.01.16, "Wastewater Rules."~~ ~~(3-31-22)~~

~~02.~~ ~~Scope~~. ~~These~~ These rules establish the procedures and requirements for the planning, design and operation of wastewater facilities~~, and~~ the~~ discharge~~ disposal of wastewater~~s~~, and human activities which may adversely affect public health and water quality~~ in the waters of the state~~. ~~(3-31-22)~~( )

002. ~~WRITTEN INTERPRETATIONS~~(RESERVED).
~~As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255.~~ ~~(3-31-22)~~

003. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Contested Case Rules and Rules for Protection and Disclosure of Records." (3-31-22)

004. INCORPORATION BY REFERENCE.
Sections 401.2.9, 401.3.4~~ and~~, 401.3.6, 501.3.4, and 505.3.3 of "Idaho Standards for Public Works Construction," ~~2007~~ 2020 Edition, are incorporated by reference into these rules.~~ These documents are~~ This document is available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise,~~ ID 83706-1255~~ Idaho, (208)373-0502, or can be purchased for a fee from the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. ~~(3-31-22)~~( )

~~005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.~~
~~The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday.~~ ~~(3-31-22)~~

~~006. CONFIDENTIALITY OF RECORDS.~~
~~Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality."~~ ~~(3-31-22)~~

005. -- 006. (RESERVED)

007. USE OF GUIDANCE IN DESIGN AND REVIEW.
Guidance documents are~~ to be~~ used to assist both designers and reviewers in determining a reasonable way to achieve compliance with these rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the Department not substitute its judgment for that of the design

engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents listed in Section 008 for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate ~~his or her~~ their own professional judgment. ~~(3-31-22)~~( )

008. REFERENCED MATERIAL.

01. ~~"~~Recommended Standards for Wastewater Facilities.~~"~~ A Report of the Wastewater Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers. ~~This document is available through Health Education Services at http://www.healthresearch.org/store~~ https://www.health.state.mn.us/communities/environment/water/docs/tenstates/tenstatestan2014.pdf. ~~(3-31-22)~~( )

~~**02. Memorandum of Understanding**. The Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau provides assistance in determining juridiction over water and sewer service lines. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, on the DEQ website at http://www.deq.idaho.gov.~~ ~~(3-31-22)~~

0~~3~~2. **"Idaho Standards for Public Works Construction."** This document is available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho, (208)373-0502, or can be purchased for a fee through the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. ~~(3-31-22)~~( )

0~~4~~3. **Water Environment Federation (WEF) Manuals of Practice**. Water Environment Federation, 601 Wythe Street, Alexandria, VA, 22314-1994, 1-800-666-0206, http://www.wef.org. (3-31-22)

0~~5~~4. **American Society of Civil Engineers (ASCE) Manuals and Reports on Engineering Practices**. American Society of Civil Engineers, 1801Alexander Bell Drive, Reston, VA 20191, 800-548-2723, http://www.asce.org. (3-31-22)

0~~6~~5. **"Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability."** U.S. EPA (EPA-430-99-74-001), http://www.epa.gov. (3-31-22)

0~~7~~6. **American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design**. 1819 L Street NW Suite 600, Washington, DC 20036, (202) 293-8020, www.ansi.org. (3-31-22)

0~~8~~7. **The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide."** (3-31-22)

0~~9~~8. **"Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy**. (3-31-22)

~~10~~09. **"Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse,"** National Water Research Institute/American Water Works Association (AWWA) Research Foundation, 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, http://www.awwa.org. (3-31-22)

1~~1~~0. **Pumping Station Design - Third Edition 2006**. Garr M. Jones. Elsevier Publications. (3-31-22)

~~12. Plan and Specification Dispute Resolution Policy. PM05-2: Plan and Specification Review Dispute Resolution Advisory Panel for Engineering Disputes can be found on the DEQ website at http://www.deq.idaho.gov.~~ ~~(3-31-22)~~

~~13. Nutrient Pathogen Evaluation Program for On-Site Wastewater Treatment Systems. Nutrient Pathogen Evaluation Program for On-Site Wastewater Treatment Systems can be found on the DEQ website at http://www.deq.idaho.gov.~~ ~~(3-31-22)~~

~~14. Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater. The Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater can be found on the DEQ website at http://~~

~~www.deq.idaho.gov.~~ ~~(3-31-22)~~

009. ~~LAWS AND CODES OUTSIDE OF THESE RULES.~~(RESERVED)

~~Compliance with the following laws and codes are not required by these rules, but may be required by other regulatory entities.~~ ~~(3-31-22)~~

~~01. International Building Code~~. ~~(3-31-22)~~

~~02. Uniform Plumbing Code~~. ~~(3-31-22)~~

~~03. National Fire Protection Association Code (NFPA)~~. ~~(3-31-22)~~

~~04. Requirements of National Institute for Occupational Safety and Health (NIOSH)~~. ~~(3-31-22)~~

~~05. Requirements of the Occupational Safety and Health Administration (OSHA)~~. ~~(3-31-22)~~

~~06. National Electrical Code~~. ~~(3-31-22)~~

~~07. International Fire Code~~. ~~(3-31-22)~~

010. DEFINITIONS.

~~For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply:~~The terms "Board," "Department," "Director," "Person," and "Waters" are defined in Section 39-103, Idaho Code. The term "Groundwater"(Groundwater) is defined in Section 39-121, Idaho Code. The terms "Beneficial Use" and "Watershed" are defined in IDAPA 58.01.02, "Water Quality Standards." The term "Like-Kind Replacement" is defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." The terms "Recycled Water" and "Reuse" are defined in IDAPA 58.01.17, "Recycled Water Rules." The terms "Point Source," "Pollutant," and "Water Pollution" are defined in IDAPA 58.01.25, "Idaho Pollutant Discharge Elimination System Rules." ~~(3-31-22)~~(____)

~~01. Available~~. ~~Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner.~~ ~~(3-31-22)~~

0~~2~~1. Adequate Emergency Storage Capacity. ~~The emergency storage capacity of a~~ l Lift station wet well emergency storage capacity is the volume of the wet well measured between the high water alarm and the gravity sewer invert into the wet well. The collection system ~~shall~~ will not be used in the calculation for emergency storage. ~~For the purpose of this definition, "a~~ Adequate~~"~~ storage is defined as twice the estimated emergency response time multiplied by the peak hour flow to the wet well where the minimum emergency response time is 30 minutes, unless otherwise approved by the Department. The high water alarm ~~shall~~ must be placed at an elevation below the wet well invert sufficient to achieve the defined volumetric emergency storage capacity. ~~(3-31-22)~~(____)

~~03. Average Day Flow~~. ~~The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. See also the definition of Wastewater Flows.~~ ~~(3-31-22)~~

~~04. Beneficial Use~~. ~~Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use.~~ ~~(3-31-22)~~

0~~5~~2. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (3-31-22)

063. **Blackwaste**. Human body waste, such as excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (3-31-22)

074. **Blackwater**. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (3-31-22)

~~**08.** **Board**. The Idaho Board of Environmental Quality.~~ ~~(3-31-22)~~

05. **Buildout**. The estimated future wastewater capacity needs at full development, based on land use plans, zoning, or facility planning. Design capacities must account for these conditions unless expansion is readily achievable. ( )

096. **Capacity**. The capabilities required of a wastewater system ~~in order~~ to achieve and maintain compliance with these rules. It is divided into three (3) ~~main~~ elements: ~~(3-31-22)~~( )

a. Technical capacity means ~~the system has~~: ( )

i. ~~the p~~Physical infrastructure to safely collect wastewater and consistently meet ~~discharge~~ disposal standards and treatment requirements~~, and~~; ( )

ii. ~~is able~~Ability to meet the requirements of routine and emergency operations~~.~~; and ( )

ii. ~~It further means the a~~Ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator~~(s)~~ is required, as appropriate, for the system size and complexity. ~~(3-31-22)~~( )

b. Financial capacity means the financial resources of the wastewater system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (3-31-22)

c. Managerial capacity means ~~that~~ the management structure of the wastewater system embodies the aspects of wastewater system operations, including, but not limited to~~:~~: ~~(3-31-22)~~( )

i. Short and long range planning; (3-31-22)

ii. Personnel management; (3-31-22)

iii. Fiduciary responsibility; (3-31-22)

iv. Emergency response; (3-31-22)

v. Customer responsiveness; and (3-31-22)

vi. Administrative functions such as billing and consumer awareness. (3-31-22)

1007. **Class A ~~Effluent~~ Recycled Water**. ~~Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected.~~ For a comprehensive description of Class A ~~Effluent criteria and permitting requirements~~ recycled water, refer to IDAPA 58.01.17, "Recycled Water Rules." ~~(3-31-22)~~( )

1108. **Class A ~~Effluent~~ Recycled Water Distribution System**. The delivery system for Class A ~~effluent~~ recycled water. The distribution system does not include any of the collection or treatment portions of the wastewater facility ~~and is not subject to operator licensing requirements in Section 203 of these rules~~. ~~(3-31-22)~~( )

1209. **Collection System**. That portion of the wastewater system or treatment facility in which wastewater is received from the premises of the ~~discharger~~ user and conveyed to the point of treatment through a

series of lines, pipes, manholes, pumps/lift stations and other appurtenances. For the purposes of municipal wastewater, a wastewater system must serve two or more wastewater service connections. ~~(3-31-22)~~( )

1~~3~~0. **Compliance Schedule or Compliance Agreement Schedule**. A schedule of remedial and preventative measures and sequence of actions leading to compliance with a regulation, statute or rule, enforceable as set forth in Sections 39-116 and 39-116A, Idaho Code, respectively. (3-31-22)

~~**14. Department**. The Idaho Department of Environmental Quality. (3-31-22)~~

~~**15. Design Flow**. The critical flow used for steady-state wasteload allocation modeling. (3-31-22)~~

~~**16. Designated Beneficial Use or Designated Use**. Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. (3-31-22)~~

~~**17. Director**. The Director of the Idaho Department of Environmental Quality or his authorized agent. (3-31-22)~~

1~~8~~1. **Discharge**. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into ~~the~~ waters ~~of the state~~. ~~(3-31-22)~~( )

1~~9~~2. **Disinfection**. A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (3-31-22)

13. **Disposal**. Removal of wastewater derived from municipal and nonmunicipal sources utilizing discharge, reuse, total containment, or other allowable methods. ( )

~~20~~14. **Disposal Facility**. Any facility used for disposal of any wastewater. Facilities for the disposal of sludge are regulated under Section 650 of these rules. (3-31-22)

~~21~~15. **Effluent**. Any treated wastewater ~~discharged~~ disposed from a treatment facility. ~~(3-31-22)~~( )

~~22. Environmental Review. An environmental review document for a specific project includes a description of purpose and need for the project; a description of the affected environment and environmental impacts including, but not limited to, endangered species, historical and archaeological impacts, air impacts, surface and ground water impacts, and noise and visual impacts; a description of the planned mitigation for these impacts; and descriptions of the public process, agencies consulted, referenced documents, and a mailing list of interested parties. A checklist, which can be used as guidance, can be found on the DEQ website at http://www.deq.idaho.gov. This checklist is for Department grant and loan projects, but can be used in part or in whole as a guide. (3-31-22)~~

~~23. EPA. The United States Environmental Protection Agency. (3-31-22)~~

~~24~~16. **Equivalent Dwelling Unit (EDU)**. A measure where one (1) unit is equivalent to wastewater generated from one (1) single-family detached housing unit. For example, a business generating three (3) times as much wastewater as an average single-family detached housing unit would be considered three (3) equivalent dwelling units. (3-31-22)

~~25~~17. **Facility Plan**. ~~The facility plan~~ Comprehensive planning document for a municipal wastewater ~~treatment and disposal facility describes~~ system describing the overall existing system~~,~~ - including the collection ~~system, the~~ treatment ~~systems,~~ and ~~the~~ disposal systems~~.~~ ~~It is a comprehensive planning document for the existing infrastructure~~ and ~~includes~~ the plan for ~~the~~ future ~~of the~~ systems~~,~~ including upgrades and additions. ~~It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs.~~ A Facility Plan ~~is sometimes~~ may be referred to as a master plan or facilities planning study~~. In general, a Facility Plan is an overall system-wide plan as opposed to a project specific plan~~ and is updated on a regular basis to account for growth patterns, regulatory requirement or other needs. ~~(3-31-22)~~( )

~~26~~18. **Facility and Design Standards**. Facility and design standards are described in Sections 400

through 599 ~~of these rules. Facility and design standards found in Sections 400 through 599 of these rules~~ and must be followed in the planning, design, construction, and review of municipal wastewater facilities. ~~(3-31-22)~~( )

~~**27. Geometric Mean**. The geometric mean of "n" quantities is the "nth" root of the product of the quantities.~~ ~~(3-31-22)~~

19. Force Main. Pressurized pipeline for the purpose of conveying wastewater within a collection system or treatment facility. ( )

2~~8~~0. Gray Water. Domestic wastewater that does not contain wastewater from toilets, kitchen sinks, dishwashers, cloth washing machines, and water softeners. (3-31-22)

~~**29. Ground Water**. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil.~~ ~~(3-31-22)~~

~~30~~21. Industrial Wastewater. Any waste, together with such water as is present, that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater. (3-31-22)

~~31~~22. Land Application. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ~~ground water~~ groundwater recharge. ~~(3-31-22)~~( )

~~32~~23. License. A ~~physical~~ document issued by the Idaho ~~Bureau of Occupational Licenses~~ Division of Occupational and Professional Licenses certifying that an individual has met the appropriate qualifications and has ~~been granted the~~ authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. ~~(3-31-22)~~( )

~~**33. Major Wastewater Collection System Project**. A wastewater collection system project that is not a simple wastewater main extension.~~ ~~(3-31-22)~~

~~34~~24. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts ~~the~~ public safety or welfare. ~~(3-31-22)~~( )

~~35~~25. Material Modification. ~~Material modifications are t~~ Those modifications of an existing wastewater system that ~~are intended to~~ increase system capacity or ~~to~~ alter the methods or processes employed. ~~Any project that increases the~~ Increasing system capacity occurs by increasing pumping capacity of a system~~, increases the potential population served by the system~~ or the number of service connections within the system~~, adds~~. Altering methods or processes employed occurs by adding new or ~~alters~~ altering existing wastewater system components~~, or affects the~~ to satisfy an increase in wastewater flow of the system or changing engineering design intent of the wastewater collection or treatment system ~~is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification~~ Maintenance as outlined in the approved operation and maintenance manual, or maintenance that does not meet the criteria of a material modification described in this definition, is not a material modification. Like-kind replacement is not considered a material modification. ~~(3-31-22)~~( )

~~**36. Maximum Day Flow**. The design maximum day flow is the largest volume of flow to be received during a continuous twenty four (24) hour period expressed as a volume per unit time. See also Wastewater Flows.~~ ~~(3-31-22)~~

~~**37. Maximum Month Flow**. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. See also the definition of Wastewater Flows.~~ ~~(3-31-22)~~

~~**38. Mixing Zone**. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place~~

~~where effluents are treated.~~ ~~(3-31-22)~~

~~39~~26. **Municipal Wastewater**. ~~Unless otherwise specified, s~~ Sewage and associated solids, whether treated or untreated, together with such water that is present. ~~Also called domestic wastewater.~~ When incidental to flow and strength, ~~I~~industrial wastewater or other non-domestic sources may also be present~~, but is not considered part of the definition~~. ~~(3-31-22)~~( )

~~40. **National Pollutant Discharge Elimination System (NPDES)**. Point source permitting program established pursuant to Section 402 of the federal Clean Water Act.~~ ~~(3-31-22)~~

~~41. **Natural Background Conditions**. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed.~~ ~~(3-31-22)~~

~~42. **Non-Contact Cooling Water**. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water is not considered wastewater. Non-contact cooling water can be land applied as recharge water as discussed in Section 600 based on a Department approval as described in Subsections 600.04 and 600.05.~~ ~~(3-31-22)~~

~~43. **Nuisance**. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state.~~ ~~(3-31-22)~~

~~44. **Nutrients**. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds.~~ ~~(3-31-22)~~

~~45~~27. **Non-Potable Mains**. ~~The p~~ Pipelines that collect ~~and~~, deliver, or otherwise convey non-potable ~~discharges~~ fluids from or to multiple service connections. ~~Examples would include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and reclaimed wastewater mains.~~ ~~(3-31-22)~~( )

~~46~~28. **Non-Potable Services**. ~~The p~~ Pipelines that collect, deliver, or otherwise convey non-potable ~~discharges from individual facilities to a connection with the~~ fluids from or to a non-potable main. ~~This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers~~ These pipelines connect individual facilities to the non-potable main. This term also refers to pipelines that convey non-potable fluids from a pressurized irrigation system, recycled water system, and other non-potable systems to individual consumers. ~~(3-31-22)~~( )

29. **Nuisance**. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters. ( )

30. **Nutrients**. The major substances necessary for the growth and reproduction of plant life consisting of nitrogen, phosphorus, and carbon compounds. ( )

~~47~~31. **Operating Personnel**. Any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a ~~public~~ community wastewater system. ~~Operating personnel shall include every~~ including person~~s~~ making system control or system integrity decisions about water quantity or water quality that may affect public health. ~~(3-31-22)~~( )

~~48~~32. **Owner**. The person, company, corporation, district, association, or other organizational entity that owns the ~~public~~ wastewater system, and who provides, or intends to provide, wastewater service to system users and is ultimately responsible for the ~~public~~ wastewater system operation. ~~(3-31-22)~~( )

~~49. **Peak Instantaneous Flow**. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. See also the definition of Wastewater Flows.~~ ~~(3-31-22)~~

~~50. **Peak Hour Flow**. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. See also the definition of Wastewater Flows.~~ ~~(3-31-22)~~

~~51. **Person**. An individual, public or private corporation, partnership, association, firm, joint stock~~

~~company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties.~~ ~~(3-31-22)~~

~~**52. Point Source**. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition.~~ ~~(3-31-22)~~

~~**53. Pollutant**. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.~~ ~~(3-31-22)~~

~~54~~33. **Potable Water**. ~~A water which is free from impurities in such amounts that it is safe for human consumption without treatment~~ Water for human consumption. Also referred to as Water for Human Consumption or Drinking Water. ~~(3-31-22)~~( )

~~55~~34. **Potable Mains**. Pipelines that deliver potable water to multiple service connections. (3-31-22)

~~56~~35. **Potable Service**. Pipelines that convey potable water from a connection to the potable water main ~~across private property~~ to individual consumers. ~~(3-31-22)~~( )

~~57~~36. **Preliminary Engineering Report (PER)**. ~~The preliminary engineering report for the municipal wastewater treatment or disposal facility is the~~ Project specific design report ~~that addresses specific portions of the systems as they are being contemplated for design~~ for a new wastewater system or existing wastewater system undergoing material modifications. These reports address specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 411. ~~Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan.~~ ~~(3-31-22)~~( )

~~58~~37. **Primary Treatment**. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or waste~~s~~ flow. ~~(3-31-22)~~( )

~~59~~38. **Private ~~Municipal~~ Wastewater Treatment Plant**. A wastewater ~~facility~~ system that treats municipal wastewater and is under private ownership. These systems are typically initially owned, operated, and maintained by a developer with the ownership, operation and maintenance transferring to a homeowner's association, or similar entity as lots are sold within the development. ~~(3-31-22)~~( )

~~60~~39. ~~**Public**~~ **Community Wastewater System ~~or Wastewater System~~**. ~~A public wastewater system or wastewater system is any~~ publicly or privately owned ~~collection system or treatment~~ wastewater system that generates, collects, treats, stores, or disposes of two thousand five hundred (2,500) or more gallons of wastewater per day based on Average Day Flow measured in the system. For new wastewater systems not constructed, Average Day Flow may be estimated as documented in an approved PER. This does not include: ~~(3-31-22)~~( )

a. Any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds; or (3-31-22)

b. Any industrial or other nonmunicipal wastewater system which is covered under Section 401 ~~of these rules~~. ~~(3-31-22)~~( )

~~61~~40. **Qualified Licensed Professional Engineer (QLPE)**. A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or

employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (3-31-22)

~~62~~41. **Quasi-Municipal Corporation**. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. (3-31-22)

~~63~~42. **Receiving Waters**. Those waters which receive pollutants from point or nonpoint sources. (3-31-22)

~~64. **Recharge**. The process of adding water to the zone of saturation. (3-31-22)~~

~~65~~43. **Recharge Water**. Water ~~that is~~ specifically utilized for the purpose of adding water to the zone of saturation. ~~(3-31-22)~~( )

~~66~~44. **Redundancy**. ~~Redundancy for wastewater treatment and disposal facilities is generally focused on supplying or installing b~~ Backup equipment and facilities to make the operation of the systems more reliable~~. These redundant systems are sometimes required to provide backup for emergencies,~~ in emergency situations such as taking certain processes off-line~~,~~ or for treating spikes in wastewater flow or strength. ~~(3-31-22)~~( )

~~67~~45. **Reliability**. ~~Reliability for wastewater collection and treatment and disposal facilities is usually b~~ Based on ~~its~~ the wastewater system's ability to consistently handle the wastewater flows in the community and to meet the requirements of its permit~~. This reliability is in part based on the~~s and includes redundancy built into the wastewater infrastructure and proper maintenance of the system. ~~(3-31-22)~~( )

~~68~~46. **Reasonably Accessible**. The following criteria ~~shall~~ must be used to determine whether a project proposing a new private ~~municipal~~ wastewater treatment plant, or a material modification ~~or expansion~~ of an existing private ~~municipal~~ wastewater treatment plant, is reasonably accessible to a ~~public~~ municipal wastewater collection system. ~~(3-31-22)~~( )

a. For an existing private ~~municipal~~ wastewater treatment plant, reasonably accessible means the ~~public~~ municipal wastewater collection system becomes located within a minimum of one thousand (1,000) feet of any portion of the ~~discharge~~ disposal piping of a private ~~municipal~~ wastewater treatment plant, and the owner of the ~~public~~ municipal wastewater collection system will provide a "will serve" letter. ~~(3-31-22)~~( )

b. For a proposed project which includes a new private ~~municipal~~ wastewater treatment plant, reasonably accessible means the ~~public~~ municipal wastewater collection system is located within a minimum of one thousand (1,000) feet of any portion of the proposed development or existing development property boundary, and the owner of the ~~public~~ municipal wastewater collection system will provide a "will serve" letter. ~~(3-31-22)~~( )

c. The Department may determine that a private ~~municipal~~ wastewater treatment plant may be reasonably accessible to the ~~public~~ municipal wastewater collection system at distances greater than those distances specified in ~~Paragraphs~~ a. or b. ~~of this Subsection~~ above based on site-specific factors. ~~(3-31-22)~~( )

~~69~~47. **Responsible Charge (RC)**. ~~For purposes of Sections 202 through 204, responsible charge means, a~~ Active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site or on-call direction of employees and assistants. ~~(3-31-22)~~( )

~~70~~48. **Responsible Charge Operator**. ~~For purposes of Sections 202 through 204, a responsible charge o~~ Operator is an operator licensed at a class equal to or greater than the classification of the system ~~and~~ who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of ~~a~~ specified wastewater treatment system~~(~~s~~)~~ or wastewater collection system~~(~~s~~)~~ and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site or on-call presence at the specified facility. ~~(3-31-22)~~( )

~~71. **Reuse**. The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, ground water recharge using surface spreading, seepage ponds, or other unlined surface water~~

~~features.~~ ~~(3-31-22)~~

~~72~~49. **Reviewing Authority**. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.03.b. ~~of these rules~~, the Qualified Licensed Professional Engineer (QLPE) is also the reviewing authority. ~~(3-31-22)~~( )

~~73. Sanitary Sewer Extension. As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system.~~ ~~(3-31-22)~~

~~74~~50. **Secondary Treatment**. Processes or methods ~~for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter~~ for the removal of biodegradable organic matter (in solution or suspension) and suspended solids. May include the removal of biodegradable organics and nutrients (nitrogen, phosphorus, or both nitrogen and phosphorus). Disinfection may also be included in secondary treatment. ~~(3-31-22)~~( )

~~75~~51. **Septage**. ~~Septage is a general term for the c~~ Contents removed from septic tanks, portable vault toilets, privy vaults, wastewater holding tanks, very small wastewater treatment ~~plants~~ systems, or semi-public facilities (i.e., schools, motels, mobile home parks, campgrounds, small commercial endeavors) receiving wastewater from domestic sources. Non-domestic (industrial) wastes are not included in this definition. This does not include drinking water treatment residuals that may be held in a holding tank. ~~(3-31-22)~~( )

~~76~~52. **Septage Transfer Station**. A place where septage ~~from more than one (1) hauler~~ is accumulated for collection and subsequent removal without ~~processing to a~~ treatment ~~facility~~. ~~(3-31-22)~~( )

53. **Service Connection**. Point of connection between the utility's system and the customer's piping or premises, typically including the pipe, meter, valves, and appurtenances leading from the main to the customer's property line. ( )

~~77~~54. **Sewage**. ~~The w~~ Water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ~~ground water~~ groundwater infiltration and surface water as may be present. ~~(3-31-22)~~( )

~~78~~55. **Simple Wastewater Main Extension**. New or replacement wastewater main(s) ~~that require~~ requiring plan and specification review per these rules and that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow and capacity at downstream treatment facilities to meet disposal requirements. ~~(3-31-22)~~( )

~~79~~56. **Sludge**. The semi-liquid mass produced and removed by ~~the~~ municipal or nonmunicipal wastewater treatment processes. ~~(3-31-22)~~( )

~~80. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection:~~ ~~(3-31-22)~~

~~a. To preserve outstanding or unique characteristics; or~~ ~~(3-31-22)~~

~~b. To maintain current beneficial use.~~ ~~(3-31-22)~~

~~81. State. The state of Idaho.~~ ~~(3-31-22)~~

~~82~~57. **Substitute Responsible Charge Operator**. A ~~public~~ community wastewater operator holding a valid license at a class equal to or greater than the ~~public~~ community 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. ~~(3-31-22)~~( )

~~83~~58. **Surface Water Body**. All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. (3-31-22)

~~84. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.~~ ~~(3-31-22)~~

59. **Total Containment Lagoon**. A wastewater lagoon that relies on evaporation for effluent disposal with no other permit to dispose. ( )

~~85~~60. **Treatment**. A process or activity conducted for the purpose of removing pollutants from wastewater. (3-31-22)

~~86~~61. **Treatment Facility**. Any physical facility or land area for the purpose of ~~collecting,~~ treating, neutralizing or stabilizing pollutants including treatment plants; the necessary ~~collecting~~ conveyance, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. ~~For the purpose of these rules, a treatment facility may~~; also ~~be~~ known as a treatment system, ~~a wastewater system,~~ wastewater treatment system, wastewater treatment facility, or wastewater treatment plant. ~~(3-31-22)~~( )

~~87~~62. **User**. Any person served by a ~~public~~ wastewater system. Also known as a service connection. ~~(3-31-22)~~( )

~~88~~63. **Very Small Wastewater System**. A ~~public~~ community wastewater system that serves five hundred (500) service connections or less and includes a collection system with a system size of six (6) points or less on the system classification rating form ~~(Section 202)~~ and is limited to only one (1) or more of the following wastewater treatment processes: ~~(3-31-22)~~( )

a. Aerated lagoons; (3-31-22)

b. Non-aerated lagoon~~(s)~~; ~~(3-31-22)~~( )

c. Primary treatment; or (3-31-22)

d. Primary treatment discharging to a large soil absorption system (LSAS). (3-31-22)

~~89~~64. **Wastewater**. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ~~ground water~~ groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. ~~(3-31-22)~~( )

~~90~~65. **Wastewater Flows**. The following flows for the design year ~~shall~~ must be identified ~~as required~~ and used as a basis for design of ~~sewer~~ wastewater systems including sewer mains, ~~lift stations~~ pumping stations, wastewater treatment plants, treatment units, and other wastewater handling facilities. ~~The definition contained in this Subsection applies where any of the terms defined in Paragraphs a. through e. are used in these rules.~~(3-31-22)( )

a. Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, ~~shall~~ will be based on the average day flow during the seasonal period. ~~(3-31-22)~~( )

b. Maximum Day Flow. The design maximum day flow is the largest volume of flow to be received

during a continuous twenty-four (24) hour period expressed as a volume per unit time. (3-31-22)

c. Maximum Month Flow. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. (3-31-22)

d. Peak Instantaneous Flow. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. (3-31-22)

e. Peak Hour Flow. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. (3-31-22)

~~91~~66. **Wastewater Lagoon**. Manmade impoundments constructed with earthen or semi-permeable embankments with an impervious liner for the purpose of storing ~~or,~~ treating, or disposing of wastewater or effluent. ~~(3-31-22)~~( )

~~92. Wastewater Pipelines. The pipelines that collect and convey non-potable discharges from or to multiple service connections. (3-31-22)~~

~~93~~67. **Wastewater Pumping Station**. A wastewater facility that collects wastewater from the collection system or the treatment system and pumps it to a higher elevation. Also called lift station or wastewater lift station. (3-31-22)

68. **Wastewater System**. A collection system or treatment facility, or a combination of collection system and treatment facility. This includes all structures, equipment, or processes required to collect, convey, treat, store, and dispose of wastewater. ( )

~~94~~69. **Wastewater System Operator**. The person ~~who is~~ employed, retained, or appointed to conduct the tasks associated with routine ~~day to day operation~~ and emergency operation and maintenance of a ~~public~~ community wastewater ~~treatment or collection~~ system ~~in order~~ to safeguard the public health and environment. ~~(3-31-22)~~( )

~~95. Water Main Extension. An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (3-31-22)~~

~~96. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (3-31-22)~~

~~97. Waters and Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (3-31-22)~~

~~98. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-31-22)~~

011. -- 200. (RESERVED)

201. ~~POINT SOURCE~~ WASTEWATER ~~TREATMENT~~ SYSTEM REQUIREMENTS.

01. Appropriate Control Measures. The Department, through approval or disapproval of plans and specifications for wastewater ~~treatment and disposal facilities~~ systems, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained in IDAPA 58.01.02, "Water Quality Standards~~.~~." or IDAPA 58.01.11, "Groundwater Quality Rule." ~~(3-31-22)~~( )

02. Degree of Treatment. The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following: (3-31-22)

a. The uses which are made or desired of the receiving water; (3-31-22)

b. The volume and nature of flow of the receiving water; (3-31-22)

c. The quantity and quality of the wastewater to be treated; and (3-31-22)

d. The presence or absence of other sources of water pollution on the same watershed, stream segment or aquifer. (3-31-22)

03. Operation. Any person who owns or operates any ~~sewage or other~~ wastewater ~~treatment facility~~ system must at all times: ~~(3-31-22)~~( )

a. Ensure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; ~~and~~ ~~(3-31-22)~~

b. Ensure that untreated or partially treated wastewater is not disposed of to the ground surface unless otherwise permitted or approved by the Department; and ( )

~~b~~c. Maintain such facility in good repair. (3-31-22)

~~**04. Treatment Records**. Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to:~~ ~~(3-31-22)~~

~~**a.** Treated wastewater discharge volumes; and~~ ~~(3-31-22)~~

~~**b.** Treated wastewater discharge biochemical oxygen demand (BOD); and~~ ~~(3-31-22)~~

~~**c.** Treated wastewater discharge suspended solid concentration; and~~ ~~(3-31-22)~~

~~**d.** Discharge pH; and~~ ~~(3-31-22)~~

~~**e.** Discharge temperatures.~~ ~~(3-31-22)~~

d. Maintain records as necessary to operate the wastewater system and document compliance. ( )

0~~5~~4. Falsification of Records. It is a violation of these rules for any person to falsify or knowingly render inaccurate any treatment record ~~which can be~~ required ~~as provided in~~ under these ~~regulations~~ rules. ~~(3-31-22)~~( )

202. CLASSIFICATION OF ~~PUBLIC~~ COMMUNITY WASTEWATER SYSTEMS.

01. Classification ~~Requirement~~. All ~~public~~ community wastewater systems ~~shall~~ will be classified based on indicators of potential health risks. Classification of treatment and collection systems govern the level of licensure and operator training necessary to ensure proper operation and maintenance of a community wastewater system. Licensure is governed by the Division of Occupational and Professional Licensing rules at IDAPA 24.05.01. ~~(3-31-22)~~( )

a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be completed by the ~~public~~ community wastewater system owner or designee at the time the wastewater system is in operation for every ~~public~~ community wastewater treatment ~~system~~ facility and wastewater collection system ~~no later than July 1, 2008~~. ~~Public~~ Community wastewater treatment and wastewater collection system owners or designee ~~shall~~ must submit additional classification rating forms at five (5) year intervals or when directed by the Department

to submit a revised classification rating form. ~~(3-31-22)~~( )

b. The Department ~~shall~~ will review system classification rating forms and issue the final system classification. ~~(3-31-22)~~( )

02. Classification Criteria. ~~Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the~~ The following criteria will be used to classify community wastewater systems: ~~(3-31-22)~~( )

a. Complexity, size, volume, and variability in raw waste for treatment systems using guidelines established by the Department. ~~(3-31-22)~~( )

b. Complexity or size of collection systems. (3-31-22)

c. Other criteria ~~deemed~~ necessary to completely classify systems. ~~(3-31-22)~~( )

203. ~~PUBLIC~~ COMMUNITY WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.

01. System Operator Licensure ~~Requirement~~. Owners of all ~~public~~ community wastewater systems must place the direct supervision of their wastewater system~~(s)~~, including each treatment system and each collection system or each very small wastewater system, under the responsible charge of an operator who holds a valid license issued by the Idaho Division of Occupational and Professional Licenses equal to or greater than the classification of each treatment system and each collection system or each very small wastewater system. An operator in responsible charge of both a wastewater treatment system and a collection system ~~shall~~ must hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection, ~~with the exception of~~ except for a very small wastewater system for which the responsible charge operator may hold a single very small wastewater system license. When the responsible charge operator is not available, the community wastewater system owner must designate a substitute responsible charge operator. Owners ~~shall~~ must notify the Department in writing of any change of responsible charge or substitute responsible charge operator within thirty (30) days of such change. ~~(3-31-22)~~( )

~~**02. Responsible Charge Operator License Requirement**. An operator in responsible charge of a public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system and each collection system or each very small wastewater system, as determined by the Department.~~ ~~(3-31-22)~~

~~**03. Substitute Responsible Charge Operator**. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator.~~ ~~(3-31-22)~~

~~**04. Wastewater System Operator Licensure**. All other operating personnel at public wastewater systems, including each treatment system and each collection system or each very small wastewater system, must hold a valid license issued by the Idaho Bureau of Occupational Licenses.~~ ~~(3-31-22)~~

0~~5~~2. Wastewater System Operator Licensure Exceptions. (3-31-22)

a. ~~Any public~~Community wastewater system operating personnel that exclusively operate a Class A ~~Effluent~~ Recycled Water Distribution System ~~of a Class A Municipal Reclaimed Wastewater System permitted~~ in accordance with IDAPA 58.01.17, "Recycled Water Rules," are not subject to operator licensure requirements as outlined in these rules. ~~(3-31-22)~~( )

b. Any non-pressurized drainfield and associated septic tank and collection system operating personnel are not subject to operator licensure requirements. (3-31-22)

~~**06. General Compliance Deadline**. All public wastewater systems addressed in Sections 202 and 203 shall be in compliance with these rules by April 15, 2006.~~ ~~(3-31-22)~~

~~**07. Land Application/Reuse Operator Compliance Deadline**. Each public wastewater land~~

~~application/reuse system addressed in these rules shall employ, retain or contract with licensed land application/reuse operating personnel by April 15, 2007.~~ ~~(3-31-22)~~

204. CONTRACTING FOR SERVICES.
~~Public~~Community wastewater systems may contract with properly licensed operating personnel to provide responsible charge operators and substitute responsible charge operators. Proof of such contract ~~shall~~ must be submitted to the Department prior to the contracted operating personnel performing any services at the ~~public~~ community wastewater system. ~~(3-31-22)~~( )

205. -- 259. (RESERVED)

260. SUBSURFACE SEWAGE ~~OR WASTE~~ DISPOSAL.
~~Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses. See also~~For permitting and approval processes for subsurface sewage disposal see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks." ~~(3-31-22)~~( )

261. -- 399. (RESERVED)

400. REVIEW OF PLANS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS.
Plans and specifications for municipal wastewater ~~treatment or disposal facilities~~ systems must comply with the facility and design standards set forth in Sections 410 through 599. The plans and specifications must contain sufficient detail to allow for the construction of the wastewater systems. If design issues are not addressed by the facility and design standards, then guidance documents, some of which are listed in Section 008, ~~shall~~ may be used as guidance in the design and review of the plans and specifications ~~for municipal wastewater treatment or disposal facilities~~. See also Section 007. ~~(3-31-22)~~( )

01. Ownership. Documentation of the ownership and responsibility for operating the proposed wastewater system ~~shall~~ must be made available to the Department prior to or concurrent with the submittal of plans and specifications ~~as required~~ described in Subsection 400.03. The documentation must ~~show the~~ demonstrate financial arrangements adequate ~~to demonstrate the ability~~ for construction, ~~and~~ operation, and maintenance of the system ~~according to these rules~~. Documentation ~~shall~~ must also include the name of the wastewater system owner; the name, address, and phone number of the wastewater treatment facility; and the name, address, and phone number of the responsible charge operator. This information may be presented in a "will serve" letter described in Subsection 400.02. ~~(3-31-22)~~( )

02. ~~Connection to Existing System~~Will Serve Letter. If the proposed project ~~is to be connected~~ connects to an existing wastewater system, a letter from the existing wastewater system must be submitted to the Department stating that the existing wastewater system ~~will be~~ is able to and will provide services to the proposed project and that the wastewater system has reviewed and accepted the proposed construction plans and specifications subject to Department review and approval. The Department may require further documentation showing the ability of the existing wastewater system to provide service to the ~~new system~~ proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications ~~as required~~ described in Subsection 400.03. ~~(3-31-22)~~( )

03. Plan and Specification Review. (3-31-22)

a. Except as provided in Subsection 400.03.b., all plans and specifications for the construction of new ~~sewage systems, sewage treatment plants or systems, other~~ municipal wastewater ~~treatment or disposal facilities~~ systems, or ~~for~~ material modifications to existing ~~sewage treatment plants or systems,~~ municipal wastewater ~~treatment or disposal facilities shall~~ systems must be submitted to the Department for review and approval before construction may begin and all construction ~~shall~~ must be in substantial compliance ~~therewith~~. This does not include plan and specifications for facilities for sludge disposal~~,~~ but does include plans and specifications for treatment or storage of sludge. ~~If construction does not commence within twelve (12) months of the Department's final approval of plans and specifications, the Department may require resubmittal of all or part of the plans and specifications for review. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two~~

~~(42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 400.03.a. with such records including the final decision rendered and the timeliness thereof~~ The Department will review plans and specifications in accordance with timelines set forth in Section 39-118, Idaho Code. If construction is not completed within twelve (12) months of the Department's final approval, an extension or re-approval must be obtained from the Department. The Department may require re-submittal of all or part of the plans and specifications prior to issuing an extension or re-approving the plans and specifications. The Department may, at its discretion, issue an approval or re-approval for a duration of more than twelve (12) months based on documentation provided by the design engineer that completion of construction is anticipated to be more than twelve (12) months. No material deviation ~~shall~~ may be made to the approved plans and specifications without the prior approval of the Department. ~~(3-31-22)~~( )

b. Plans developed for simple wastewater main extensions~~,~~ do not require preconstruction approval by the Department when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility~~, shall not require preconstruction approval by the Department,~~ provided that such plans and specifications are reviewed and approved by a QLPE to verify compliance with ~~the requirements of~~ these rules prior to initiation of construction. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the Department for review and approval prior to initiation of construction. The Department has the authority to review plans and specifications approved by a QLPE and can require modifications if the plans and specifications do not meet facility and design standards. Any plans and specifications approved pursuant to this ~~S~~subsection ~~400.03.b. shall~~ must be transmitted to the Department at the time construction is authorized and ~~shall~~ must be marked or stamped as "Approved for Construction." ~~Along with the plans and specifications, the transmittal must include the items listed in Subsections 400.03.b.i. through 400.03.b.vii.~~ The plans and specifications must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. Along with the plans and specifications, the transmittal must include the following statements. ~~(3-31-22)~~( )

i. ~~A statement that t~~The author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. ~~(3-31-22)~~( )

ii. ~~A statement that t~~The extension project complies with the current facility plan or ~~preliminary engineering report~~ PER, or a statement that the ~~sewer system/treatment facility~~ wastewater system has adequate capacity. ~~(3-31-22)~~( )

iii. ~~A statement from t~~The city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will serve the project. ~~(3-31-22)~~( )

iv. ~~A statement from t~~The city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will own and operate the project after construction is complete. ~~(3-31-22)~~( )

v. ~~A statement by t~~The QLPE ~~that the~~ approved plans and specifications ~~are approved~~ for construction. ~~(3-31-22)~~( )

vi. ~~A statement by t~~The QLPE ~~that the~~ ensures plans and specifications comply with the facility standards within these rules. ~~(3-31-22)~~( )

vii. ~~A statement r~~Recommending whether sanitary restrictions can be released or should remain in force. ~~(3-31-22)~~( )

c. ~~Subsections 400.03.c.i. through 400.03.c.vi. outline the projects which~~A QLPE~~s~~ may approve ~~and which QLPEs may not approve.~~: ~~(3-31-22)~~( )

i. ~~A QLPE may approve p~~Plans and specifications for simple wastewater main extensions that will be

able to ~~discharge~~ dispose to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE~~.~~; ~~(3-31-22)~~( )

ii. ~~A QLPE may approve p~~Plans for simple wastewater main extensions which will ~~discharge~~ dispose to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility, but are unable to connect to the wastewater system at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension~~.~~; and ~~(3-31-22)~~( )

~~iii. A QLPE may not approve plans and specifications which include mechanical systems such as lift stations or treatment works.~~ ~~(3-31-22)~~

~~iv. A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design.~~ ~~(3-31-22)~~

~~v~~iii. A design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility if the QLPE is employed by a city, county, quasi-municipal corporation, or regulated public utility ~~may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility~~. ~~(3-31-22)~~( )

d. A QLPE may not approve: ( )

i. Plans and specifications which include mechanical systems such as wastewater pumping stations, force mains, or treatment facilities; ( )

ii. Plans and specifications which the QLPE was the design engineer or otherwise involved in the design; and ( )

~~v~~iii. ~~A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects~~Plans and specifications designed by the company with which the QLPE is employed if the QLPE is not employed by a city, county, quasi-municipal corporation or regulated public utility. ~~(3-31-22)~~( )

04. ~~Professional~~ Engineer's Seal. Plans and specifications ~~for construction, alteration or expansion of any sewage system, sewage treatment plant or system, or other municipal wastewater treatment or disposal facility shall~~ submitted to the Department for the construction or material modification of wastewater systems must be prepared by or under the supervision of an Idaho licensed professional engineer and ~~shall bear the imprint of the engineer's seal~~ must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. ~~Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer.~~ ~~(3-31-22)~~( )

05. Record Plans and Specification. (3-31-22)

a. ~~Within thirty (30) calendar days of the completion of construction of facilities covered by Subsection 400.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the engineer must confirm material compliance with the approved plans and specifications or disclose material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that affect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings~~Must be submitted to the Department as specified in Section 39-118(3), Idaho Code. ~~(3-31-22)~~( )

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications,

must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (3-31-22)

06. Compliance With Applicable Standards and Rules. All plans and specifications submitted ~~to satisfy the requirements of Sections 400 through 599 or approved in compliance with Sections 400 through 599, shall~~ must be in compliance with ~~the requirements of~~ these rules and ~~shall~~ conform in style and quality to regularly accepted engineering standards. ~~The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with these rules.~~ ~~(3-31-22)~~( )

07. ~~Waiver of Approval Requirement~~Exception. The Department may waive the plan and specification approval for any ~~particular~~ facility or category of facilities which will have no significant impact on the environment or ~~on the~~ public health. ~~(3-31-22)~~( )

08. ~~Requirement to Have Approved Plans and Specifications and Approval Letter~~ Department Approval On-site During Construction. ~~It is the responsibility of t~~ The owner ~~to~~ must maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. ~~(3-31-22)~~( )

09. Construction Inspection ~~Requirement~~. Except as provided in Subsection 400.03.b., ~~no~~ construction ~~shall~~ may not commence until all ~~of the~~ necessary approvals have been received from the Department. The owner ~~shall provide for the inspection of the construction of a municipal wastewater treatment or disposal facility by an Idaho licensed professional engineer to the extent required to~~ must ensure an Idaho licensed professional engineer can confirm material compliance with the approved plans and to produce accurate record documents as ~~required by~~ described in Subsection 400.05. ~~(3-31-22)~~( )

401. REVIEW OF PLANS FOR NONMUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS.

01. Plan and Specification Approval ~~Required~~. The Department reviews nonmunicipal wastewater system plans and specifications external to in-plant processes to ensure compliance with this chapter. The construction, ~~alteration or expansion~~ of any new, or material modification of an existing, nonmunicipal wastewater ~~treatment or disposal facility~~ system must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department. ~~Deviations may be allowed as provided in Subsection 401.02. The Department does not require review of industrial in-plant processes.~~ ~~(3-31-22)~~( )

02. Deviations from Approved Plans. No material deviations ~~are to~~ may be made from the approved plans and specifications without prior approval ~~of~~ from the Department. ~~(3-31-22)~~( )

03. ~~Professional~~ Engineer's Seal. Plans and specifications ~~for construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility shall~~ submitted to the Department must be prepared by or under the supervision of an Idaho licensed professional engineer and ~~shall bear the imprint of the engineer's seal~~ be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. Construction ~~shall~~ must be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. ~~(3-31-22)~~( )

04. Record Plans and Specifications. (3-31-22)

a. ~~If actual construction deviates from the approved plans and specifications, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed, shall be submitted to the Department for review and approval within thirty (30) days of completion of construction. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings~~Must be submitted to the Department as specified in Section 39-118(3), Idaho Code. ~~(3-31-22)~~( )

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications,

must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (3-31-22)

05. ~~Waiver of Approval Requirement~~Exception. The Department can waive the plan and specification approval ~~required~~ described in Subsection 401.01 for any ~~particular~~ facility or category of facilities which will have no significant impact on the environment or on ~~the~~ public health. ~~(3-31-22)~~( )

06. Department Approval On-site During Construction. The owner must maintain a copy of the approved plans and specifications and the approval letter from the Department on-site during construction at all times. ( )

0~~6~~7. Applicability of Standards. The facility and design standards for municipal wastewater ~~treatment or disposal facilities~~ systems set out in these rules do not apply to nonmunicipal wastewater ~~treatment or disposal facilities~~ systems covered under Section 401. All plans and specifications submitted pursuant to Section 401.01 must conform in style and quality to regularly accepted engineering standards and applicable guidance and include the basis of design information and applicable design criteria. ~~(3-31-22)~~( )

~~**402. PLAN AND SPECIFICATION REVIEW DISPUTE RESOLUTION.**~~
~~The Department's plan and specification review dispute resolution policy is set out in PS20-08 at https://www.deq.idaho.gov.~~ ~~(3-31-22)~~

40~~3~~2. -- 408. (RESERVED)

409. ~~FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES:~~ DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY.
No person ~~shall~~ may proceed, or cause to proceed, with construction of a new ~~public~~ community wastewater system, a new private ~~municipal~~ treatment plant, a new wastewater treatment facility, or a new privately owned wastewater pumping station until it has been demonstrated to the Department that the wastewater system will have adequate technical, financial, and managerial capacity~~, as defined in Section 010 of these rules~~. Demonstration of capacity ~~shall~~ must be submitted to the Department prior to, or concurrent with, the submittal of plans and specifications, as ~~required~~ described in Section 39-118, Idaho Code, and Subsection 400.03 ~~of these rules~~. The Department ~~shall~~ will issue in writing its approval of the new system capacity demonstration. Existing wastewater systems incapable of demonstrating technical, financial, or managerial capacity as identified through operational problems, may be required to submit additional technical, financial, or managerial documentation to the Department for review and approval. ~~(3-31-22)~~( )

01. Technical Capacity. ~~In order t~~ To meet this ~~requirement~~ provision, the ~~public wastewater system shall~~ system owner must submit documentation ~~to demonstrate the following~~ demonstrating: ~~(3-31-22)~~( )

a. The system meets the relevant design, construction, and operating requirements of these rules; (3-31-22)

b. A plan is in place to deal with emergencies; (3-31-22)

c. A plan exists for replacement or improvement of infrastructure as necessary; and (3-31-22)

d. The system has trained personnel with an understanding of the technical and operational characteristics of the system. (3-31-22)

02. Financial Capacity. ( )

a. ~~A demonstration~~Documentation of financial capacity must include, but is not limited to~~, the following information~~: ~~(3-31-22)~~( )

~~a~~i. ~~Documentation that o~~Organizational and financial arrangements ~~are~~ adequate to construct and operate the wastewater system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through

public or private sources and, if available, a certified financial statement; ~~(3-31-22)~~( )

~~b~~ii. ~~Demonstration of r~~Revenue sufficiency, that includes, but is not limited to, billing and collection procedures; a proposed rate structure ~~which~~ demonstrat~~es~~ing the availability of operating funds; revenues for depreciation and reserves; and the ability to accrue a capital replacement fund. A preliminary operating budget ~~shall~~ must be provided; and ~~(3-31-22)~~( )

~~e~~iii. Adequate fiscal controls ~~must be demonstrated~~. ~~(3-31-22)~~( )

~~d~~**b.** For private ~~municipal~~ wastewater treatment plants, a performance bond, maintenance bond, or cash reserve of one (1) year of operation and maintenance costs is required to ensure continuous and adequate operation and maintenance. ~~(3-31-22)~~( )

03. Managerial Capacity. ~~In order t~~ To demonstrate adequate managerial capacity, the system owner ~~or operator of a new wastewater system shall~~ must submit at least the following information to the Department: ~~(3-31-22)~~( )

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership upon completion of construction or after a period of operation; (3-31-22)

b. The name, address, and telephone number of the person who will be accountable ~~for ensuring~~ to ensure that the wastewater system ~~is in compliance with~~ follows these rules; ~~(3-31-22)~~( )

c. The name, address, and telephone number of the responsible charge operator and the substitute responsible charge operator; ~~(3-31-22)~~( )

d. A description of ~~the manner in which~~ how the wastewater system will be managed. Information such as by-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure ~~shall~~ must be provided; ~~(3-31-22)~~( )

e. A ~~recommendation~~ description of staff qualifications, including training, experience, certification or licensing, and continuing education; ~~(3-31-22)~~( )

f. An explanation of how the wastewater system will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and (3-31-22)

g. Evidence of planning for future growth, equipment repair and maintenance, and long-term replacement of system components. ~~(3-31-22)~~( )

04. Consolidation. In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining wastewater service from an established ~~public~~ wastewater system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to wastewater users, and protection of public health. ~~(3-31-22)~~( )

410. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: FACILITY PLANS.

01. Facility Plans ~~Required~~. ~~All~~ Unless otherwise noted in this subsection, all new municipal wastewater ~~treatment or disposal facilities,~~ systems and all existing municipal wastewater ~~treatment or disposal facilities~~ systems undergoing material modification ~~or expansion,~~ are required to have a current facility plan that ~~shall~~ addresses all applicable issues specifically required in Sections 410 and 420 through 599 ~~of these rules including, but not limited to, hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations~~. The facility plan ~~shall~~ must address these issues sufficiently to determine the effects of the project on the overall wastewater infrastructure. ~~Material modification or expansion that requires a facility plan includes upgraded, or rehabilitated municipal wastewater treatment or disposal facilities and major collection, interceptor~~

~~sewer, pump station projects, and septage transfer station projects.~~ Facility plans must address the entire potential service area of the ~~project~~ wastewater system. A facility plan may be completed for collection systems only, for treatment facilities only, or for both the collection system and the treatment facility. If such a collection system facility plan is prepared, and flows increase ~~in excess of~~ more than the design capacity of downstream collection and treatment facilities, the impact of the flow ~~shall~~ must be addressed in the facility plan. ~~(3-31-22)~~( )

a. ~~Department-reviewed simple wastewater main extension projects.~~ A facility plan is not required if the Department is provided documentation supporting the ability of the wastewater system to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the ~~system~~ treatment facility and without overloading the existing collection system. Documentation may be in the form of: ~~(3-31-22)~~( )

i. Hydraulic modeling; (3-31-22)

ii. Usage data and flow calculations; (3-31-22)

iii. Declining balance reports that demonstrate the wastewater system has the capacity to supply the service area of the system served by the extension; or ~~(3-31-22)~~( )

iv. Other documentation acceptable to the Department. (3-31-22)

b. ~~QLPE-Reviewed Simple Wastewater Main Extension Projects.~~ A Department-approved facility plan is not required to be in place prior to the QLPE approving simple wastewater main extensions pursuant to Subsection 400.03.b., provided that the system is in compliance with the facility and design standards in the area served by the extension. If the Department has not approved a facility plan which covers the proposed simple wastewater main extension, then the system owner or the QLPE must include with the transmittal letter documentation supporting the ability of the system owner to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the system and without overloading the existing collection system. The system owner ~~shall~~ must provide this documentation to the QLPE as necessary. Documentation may be in the form of: ~~(3-31-22)~~( )

i. Hydraulic modeling; (3-31-22)

ii. Usage data and flow calculations; (3-31-22)

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (3-31-22)

iv. Other documentation acceptable to the Department. (3-31-22)

02. Submittal to Department. Facility plans ~~shall~~ must be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan. ~~(3-31-22)~~( )

03. Engineer's Seal ~~Required~~. Facility plans submitted to the Department ~~shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer~~ must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. ~~(3-31-22)~~( )

04. Facility Plan Contents. The facility plan ~~shall~~ must assemble basic information, present criteria and assumptions, address hydraulic capacity, treatment capacity, and operation and maintenance considerations, and examine alternative solutions with preliminary layouts ~~and~~, cost estimates, and project financing. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion. The minimum requirements for a facility plan are ~~located~~ in Subsections 410.04.a. through 410.04.c. If specific items are not applicable to a particular facility plan, then the engineer ~~shall~~ must state this in the facility plan and state the reason why it is not applicable. ~~(3-31-22)~~( )

a. ~~New Wastewater System Facility Plan.~~ The facility plan for a new wastewater system must include sufficient detail to support the ~~requirements~~ provisions of Sections 410 through 520 and address these items ~~listed in~~

~~Subsections 410.04.a.i. through 410.04.a.vii. of this rule.~~: ~~(3-31-22)~~( )

i. ~~Location.~~ Provide a general description and location of the system including service boundaries~~.~~; ~~(3-31-22)~~( )

ii. ~~Population.~~ Provide the estimated design population and service connections expressed as EDUs of the system~~.~~; ~~(3-31-22)~~( )

iii. ~~Wastewater flows.~~ Provide design data for domestic, commercial, and industrial wastewater generation, including average day, maximum day, maximum month, or peak hour flows~~.~~; ~~(3-31-22)~~( )

iv. ~~Collection.~~ Identify and describe any anticipated or proposed wastewater collection systems. Include specific details on any anticipated or proposed wastewater pumping stations and on any anticipated or proposed wastewater interceptor or trunk lines~~.~~; ~~(3-31-22)~~( )

v. ~~Treatment.~~ Identify and describe any anticipated or proposed treatment ~~works~~ facilities. Provide specific detail on the type and level of treatment and the required capacity of the treatment ~~system~~ facility~~.~~; ~~(3-31-22)~~( )

vi. ~~Disposal.~~ Identify and describe any anticipated or proposed wastewater disposal system(s). Include specific information on the location and method of disposal and information on any existing disposal permits or estimated timelines to obtain anticipated required permits~~.~~; and ~~(3-31-22)~~( )

vii. ~~Drinking water.~~ Describe the drinking water distribution system with reference to the relationship to existing or proposed wastewater structures which may affect the operation and location of the wastewater system. ~~(3-31-22)~~( )

b. ~~Existing Wastewater System Facility Plan.~~ The facility plan for an existing wastewater system must include sufficient detail to support the ~~requirements~~ provisions of Sections 410 through 520, address all items in Subsections 410.04.a.i. through 410.04.a.viii., and ~~address all items in Subsections 410.04.b.i. through 410.04.b.viii.~~ the following: ~~(3-31-22)~~( )

i. Provide a system-wide hydraulic analysis of the collection system ~~if requested~~ unless otherwise approved by the Department. Any hydraulic analysis of an existing collection system ~~shall~~ must be properly calibrated. The type and sophistication of the hydraulic analysis ~~shall~~ will be dependent on the type of the wastewater system~~.~~; ~~(3-31-22)~~( )

ii. Identify and evaluate problems or deficiencies related to the wastewater system~~.~~; ~~(3-31-22)~~( )

iii. Identify the design capacity of existing facilities and the current operating flows~~.~~; ~~(3-31-22)~~( )

iv. Identify if two or more wastewater systems will become one operating under the same governance, management, and financial functions including the physical interconnection of two or more wastewater systems; ( )

~~i~~v. Describe financing options for projects identified in the facility plan~~.~~; ~~(3-31-22)~~( )

vi. Set forth anticipated charges for users~~.~~; ~~(3-31-22)~~( )

vii. Review organizational and staffing requirements~~.~~; ~~(3-31-22)~~( )

viii. Offer ~~a~~ project~~(s)~~ recommendations for client consideration~~.~~; and ~~(3-31-22)~~( )

~~viii~~ix. Outline official actions and procedures to implement the project. (3-31-22)

c. ~~Wastewater System Facility Plan Funded by the State Revolving Fund.~~ If the project is funded by the state revolving fund or a state grant, the facility plan must meet the ~~requirements~~ provisions of Subsections

410.04.a. and 410.04.b., and other requirements that may also apply. See ~~IDAPA 58.01.12 "Rules for Administration of Water Pollution Control Loans," and IDAPA 58.01.04, "Rules for Administration of Wastewater Treatment Facility Grants."~~ IDAPA 58.01.12, "Rules for Administration of Wastewater and Drinking Water Loan Funds," and IDAPA 58.01.22, "Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities." ~~(3-31-22)~~( )

d. Facility Plan Guidance. A checklist which can be used for guidance can be found on the DEQ website at http://www.deq.idaho.gov. This checklist is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. (3-31-22)

411. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: PRELIMINARY ENGINEERING REPORTS.

01. Preliminary Engineering Reports ~~Required~~ (PERs). ~~Preliminary engineering reports~~ PERs are required for municipal wastewater ~~treatment or disposal facility~~ system projects that require plan and specification review and approval pursuant to Subsection 400.03 and ~~shall~~ must address all applicable issues specifically required in Sections 411 through 599 ~~of these rules including, but not limited to, purpose, scope, hydraulic capacity, treatment capacity, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Preliminary engineering reports~~. PERs must be completed for ~~major~~ wastewater collection system projects, all pump station projects, all treatment ~~plant~~ facility designs and upgrades, and all septage transfer stations. ~~Preliminary engineering reports~~ PERs are not required for simple wastewater main extensions that are approved in accordance with Subsections 410.01.a. or 410.01.b. ~~(3-31-22)~~( )

02. Submittal to Reviewing Authority. ~~Preliminary engineering reports shall~~ PERs must be submitted to the Department for review and ~~must be approved by the Department~~ approval prior to the submission of plans and specifications. ~~(3-31-22)~~( )

03. ~~Preliminary Engineering Report~~ PER Contents. The ~~preliminary engineering report~~ PER must include sufficient detail to demonstrate that the proposed project meets applicable design criteria. The ~~preliminary engineering report~~ PER generally addresses project specific issues rather than the overall system-wide plan. The ~~preliminary engineering report shall~~ PER must identify and evaluate wastewater related problems; assemble basic information; present design criteria and assumptions; examine alternative solutions with preliminary layouts and cost estimates; offer a conclusion with a proposed project; and outline official actions and procedures to implement the project. The items included in Subsections 411.03.a. through 411.03.c., and other items specifically ~~called for~~ described in Sections 426 through 599~~, shall~~ must be addressed in detail in the ~~preliminary engineering report~~ PER. If specific items are not applicable to a particular design, then the designer ~~shall~~ must state this in the ~~preliminary engineering report~~ PER and state the reason why it is not applicable. Items adequately addressed in the facility plan under which the project is being designed, may be addressed by reference for purposes of the ~~preliminary engineering report~~ PER. ~~(3-31-22)~~( )

a. ~~Major Wastewater Collection System Projects. Items applicable to preliminary engineering reports for major wastewater collection system projects are listed in Subsections 411.03.a.i. through 411.03.a.vi.~~ Items applicable to all PERs: (3-31-22)

i. ~~Coordination with Facility Plan.~~ The ~~preliminary engineering report shall discuss or~~ PER must reference or update items provided in the Department-approved facility plan. These items include, but are not limited to: ~~(3-31-22)~~( )

(1) Location of project; (3-31-22)

(2) Existing and future ~~P~~population and service connections expressed as EDUs served by project; ~~(3-31-22)~~( )

(3) Existing and ~~proposed~~ future wastewater flow~~s~~ rates; ~~(3-31-22)~~( )

(4) Existing and proposed collection system; (3-31-22)

(5) Existing and proposed treatment ~~works~~ facilities; ~~(3-31-22)~~( )

(6) Existing and proposed disposal methods; (3-31-22)

(7) Drinking water system impacts; (3-31-22)

(8) Hydraulic analysis; and (3-31-22)

(9) Financing methods. (3-31-22)

~~ii. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to:~~ ~~(3-31-22)~~

~~(1) Wastewater flow rates including peak hour flows;~~ ~~(3-31-22)~~

~~(2) Current project fifty (50) year design and build-out conditions;~~ ~~(3-31-22)~~

~~(3) Piping size, material, and installation methods;~~ ~~(3-31-22)~~

~~(4) Depth of bury and slope;~~ ~~(3-31-22)~~

~~(5) Soil and ground water conditions;~~ ~~(3-31-22)~~

~~(6) Corrosion protection; and~~ ~~(3-31-22)~~

~~(7) Odor control.~~ ~~(3-31-22)~~

ii~~i~~. ~~Code provisions.~~ The ~~preliminary engineering report shall~~ PER must include a summary of applicable codes and standards that apply to the proposed project~~.~~; ~~(3-31-22)~~( )

iv~~iii~~. ~~Cost estimate.~~ The ~~preliminary engineering report shall~~ PER must provide as applicable estimated construction costs for public works projects or projects funded by public monies~~.~~; and ~~(3-31-22)~~( )

iv. ~~Construction schedule.~~ The ~~preliminary engineering report shall~~ PER must include the proposed construction schedule. ~~(3-31-22)~~( )

~~vi. Environmental review. The preliminary engineering report shall include an environmental review. See the definition for environmental review in Section 010 for additional information.~~ ~~(3-31-22)~~

~~b~~. Items applicable to PERs for wastewater collection system projects include all items listed in Subsection 411.03.a. and: ( )

i. Current project and future wastewater flow rates including build out conditions; ( )

ii. Piping size, material, and installation methods; ( )

iii. Depth of bury and slope including justification for slopes based on widely used guidance documents or published friction coefficients and Manning's formula; ( )

iv. Soil and groundwater conditions; ( )

v. Corrosion protection; and ( )

vi. Odor control. ( )

~~b~~c. ~~Wastewater Pump Station Projects.~~ Items applicable to ~~preliminary engineering reports~~ PERs for wastewater pump station projects include all items listed in Subsection 411.03.a. and the following ~~items listed in~~

~~Subsections 411.03.b.i. through 411.03.b.iv.~~: ~~(3-31-22)~~( )

i. ~~Design criteria.~~ The ~~preliminary engineering report shall~~ PER must discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: ~~(3-31-22)~~( )

(1) Wastewater flow rates including average day, maximum day, and peak hour flows; (3-31-22)

(2) Influent wastewater characteristics, including characteristics during periods of wet weather flows; (3-31-22)

(3) Size and configuration; ~~and~~ ~~(3-31-22)~~( )

(a) Friction losses through force mains must be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of "C" must be evaluated for different types and ages of pipe; and ( )

(b) When initially installed, force mains will have a significantly higher "C" factor. The effect of the higher "C" factor must be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities must also be considered; and ( )

(4) Redundancy provisions. (3-31-22)

ii. ~~Site evaluation and layout.~~ The ~~preliminary engineering report shall~~ PER must describe the proposed site and layout of the wastewater pumping station. This information includes, but is not limited to: ~~(3-31-22)~~( )

(1) Currently proposed facilities; (3-31-22)

(2) Geotechnical investigation and provisions including buoyancy calculations if required; (3-31-22)

(3) Flood control provisions; (3-31-22)

(4) Security; (3-31-22)

(5) Operations and maintenance assessments; and (3-31-22)

(6) Odor management plans. (3-31-22)

iii. ~~Instrumentation and control system.~~ The ~~preliminary engineering report shall~~ PER must discuss instrumentation and control that will be provided. This information includes, but is not limited to: ~~(3-31-22)~~( )

(1) System configuration; (3-31-22)

(2) Operator interface; (3-31-22)

(3) Process and instrumentation diagrams; ~~and~~ ~~(3-31-22)~~( )

(4) Alarm systems. (3-31-22)

iv. ~~Emergency operation.~~ The ~~preliminary engineering report shall~~ PER must describe how the system will be operated during power outages, equipment failures, or other unforeseen system failures. ~~(3-31-22)~~( )

~~e~~**d.** ~~Wastewater Treatment Plants.~~ Items applicable to ~~preliminary engineering reports~~ PERs for wastewater treatment ~~plant~~ facility designs and upgrades include all items listed in Subsection 411.03.a., Subsection 411.03.~~b~~c., and ~~Subsections 411.03.c.i. through 411.03.c.iv.~~ the following: ~~(3-31-22)~~( )

i. ~~Design criteria.~~ The ~~preliminary engineering report shall~~ PER must discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: ~~(3-31-22)~~( )

(1) Wastewater flow rates including average day, maximum day, maximum month, and peak hour flows; (3-31-22)

(2) Effluent requirements; (3-31-22)

(3) Solids production, disposal, or recycling requirements; (3-31-22)

(4) Process units design criteria, process selection, and support data; (3-31-22)

(5) Mass balance calculations for process units including, but not limited to, flow and solids; and (3-31-22)

(6) Monitoring and reporting requirements. (3-31-22)

ii. ~~Site evaluation and layout.~~ The ~~preliminary engineering report shall~~ PER must describe the proposed site and layout of the ~~wastewater system~~ treatment facilities. This information includes, but is not limited to: ~~(3-31-22)~~( )

(1) Currently proposed facilities; (3-31-22)

(2) Facilities for twenty (20) year design conditions; (3-31-22)

(3) Facilities for build-out conditions; (3-31-22)

(4) Space for facilities potentially necessary to meet higher levels of treatment; (3-31-22)

(5) Liquid process facilities and conveyance; (3-31-22)

(6) ~~Solids~~Sludge process facilities and conveyance; ~~(3-31-22)~~( )

(7) Plant access and on-site roads and walkways; (3-31-22)

(8) Process piping and utilities; (3-31-22)

(9) Buffer zones; (3-31-22)

(10) Landscaping; (3-31-22)

(11) Administration and operations buildings; (3-31-22)

(12) Onsite laboratory facilities; and (3-31-22)

(13) Treatment during construction and proposed unit bypassing requirements in accordance with applicable disposal permits. ~~(3-31-22)~~( )

iii. ~~Hydraulic profile.~~ The ~~preliminary engineering report shall~~ PER must provide a hydraulic profile for the proposed ~~system~~ treatment facilities. This information includes, but is not limited to: ~~(3-31-22)~~( )

(1) Twenty (20) year design facilities; (3-31-22)

(2) Provision for higher levels of treatment; (3-31-22)

(3) Receiving stream one hundred (100) year surface water elevation; and (3-31-22)

(4) Hydraulics and pipe sizing for build-out conditions. (3-31-22)

iv. ~~Process units.~~ The ~~preliminary engineering report shall~~ PER must describe in detail the proposed process units and discuss how the proposed units will interface with any existing process units. This information includes, but is not limited to: ~~(3-31-22)~~( )

(1) Current project and twenty (20) year design and build-out conditions; (3-31-22)

(2) Size and number of units and loading rates; (3-31-22)

(3) Redundancy provisions; (3-31-22)

(4) Equipment type, size, performance criteria, and power requirements; (3-31-22)

(5) Structure, equipment, and piping layout; (3-31-22)

(6) Special code requirements; (3-31-22)

(7) Cold temperature operation; and (3-31-22)

(8) Procedures required for initial start-up of process unit(s), including procedures ~~required~~ for handling initial system flows that are less than minimum flow requirements for the process unit(s). ~~(3-31-22)~~( )

04. Engineer's Seal ~~Required~~. ~~Preliminary engineering reports~~ PERs submitted to the Department ~~shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer~~ must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. ~~(3-31-22)~~( )

412. -- ~~419.~~ ~~(RESERVED)~~

~~420. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SUBMISSION OF PLANS AND SUPPORT DOCUMENTS.~~

~~Submissions to the reviewing authority for construction of municipal wastewater treatment or disposal facilities shall include sealed plans and specifications, design criteria, the appropriate construction permit applications, review forms, and permit fee if required. The plans and specifications shall contain sufficient detail to allow for the contracting and construction of the wastewater systems.~~ ~~(3-31-22)~~

~~421. —~~ 424. (RESERVED)

425. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: OPERATION AND MAINTENANCE MANUALS.

01. Manual Contents. An operation and maintenance manual or manuals ~~shall~~ must be ~~provided~~ developed for all wastewater systems. ~~The manual shall~~ and include, but ~~is~~ not limited to, the following contents: daily operating instructions, operator safety and emergency response procedures, location of valves and other key system features, a parts list and parts order form~~(s)~~, maintenance schedule and information for contacting the responsible charge operators. An operational trouble-shooting section ~~shall~~ must be supplied to the wastewater ~~works~~ system as part of any proprietary unit installed in system's facilities. ~~(3-31-22)~~( )

02. Approval ~~Required~~. Final operation and maintenance manuals for new construction or material modification of wastewater systems that include ~~lift stations~~ pumping stations or treatment ~~works~~ facilities must be submitted to the Department for review and approval prior to start-up of the proposed system unless the system components are already covered in an existing manual. ~~(3-31-22)~~( )

426. -- 429. (RESERVED)

430. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS -- DESIGN AND CONSTRUCTION OF WASTEWATER PIPELINES.

01. Design Capacity ~~and Design Flow~~. ~~In general, s~~ Sewer capacities ~~shall~~ must be designed for the estimated ~~ultimate tributary population~~ buildout flow, except in considering parts of the systems that can be readily increased in capacity. ~~(3-31-22)~~( )

02. Details of Design and Construction. (3-31-22)

a. ~~Minimum Pipe Size.~~ Minimum pipe size for gravity sewer mains ~~shall~~ must be eight (8) inches in diameter. Minimum pipe size for gravity sewer services ~~shall~~ must be four (4) inches in diameter. Pipe diameters larger than these minimums ~~shall~~ must be based on cleaning capability and hydraulic capacity~~,~~ and ~~shall~~ conform with the required planning documents. ~~(3-31-22)~~( )

b. ~~Depth.~~ Wastewater pipelines ~~shall~~ must be installed sufficiently deep or specifically designed to prevent freezing and to protect the facilities from surface loading. ~~(3-31-22)~~( )

c. ~~Buoyancy.~~ Buoyancy of wastewater pipelines ~~shall~~ must be considered and flotation of the pipe ~~shall~~ must be prevented with appropriate construction where high groundwater conditions are anticipated. ~~(3-31-22)~~( )

d. ~~Slope.~~ Gravity wastewater pipelines ~~shall~~ must be designed to have sufficient slope and velocity to "self-clean" or transport constituent solids to the treatment facility. ~~Justification for these slopes shall be included in the preliminary engineering report and shall be based on widely used guidance documents or published friction coefficients and Manning's formula.~~ ~~(3-31-22)~~( )

i. If the current or future ownership of the system is by a city, county, quasi-municipal corporation or regulated public utility and the velocities are less than self-cleaning, the owner ~~shall~~ must, as a condition of the Department's approval of plans and specifications, provide justification for the lower velocities and commit to, at a minimum, annually service wastewater pipelines to flush, transport, or remove solids from wastewater pipelines. This would include the use of cutting tools for roots, ~~v~~Vactor trucks, and any other method required to keep the pipelines clean, intact and flowing. That commitment ~~shall~~ must be in the form of a letter from both the owner and the future owner entity stating said commitment~~,~~ and ~~shall~~ must include a discussion of the current and future owners' capacity to ~~do said flushing~~ complete annual servicing. ~~(3-31-22)~~( )

ii. If the ~~current or future ownership of the system~~ owner is ~~by~~ a developer that is passing the operation and maintenance on to a homeowner's association or other similar entity, ~~then~~ the design ~~shall~~ may not allow for velocities that are less than self-cleaning. ~~(3-31-22)~~( )

e. Materials. (3-31-22)

i. ~~Any generally accepted material for wastewater pipelines will be given consideration.~~ The material selected should be adapted to local conditions, such as: character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loadings, abrasion, corrosion, and similar problems. ~~(3-31-22)~~( )

ii. Couplings complying with applicable standard specifications ~~shall~~ must be used for joining dissimilar materials. ~~(3-31-22)~~( )

iii. For new pipe materials for which standards have not been established, the design engineer ~~shall~~ must provide complete pipe specifications and installation specifications developed on the basis of criteria adequately documented and certified in writing by the pipe manufacturer to be satisfactory for the specific application. ~~(3-31-22)~~( )

f. ~~Installation.~~ Installation specifications ~~shall~~ must contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. ~~Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications~~ For assistance in designing such specifications, see "Idaho Standards for Public Works Construction," referenced in Section 008.

~~(3-31-22)~~( )

g. Joints and Infiltration. (3-31-22)

i. The installation of joints and the materials used~~ shall~~ must be included in the specifications. Wastewater pipeline joints~~ shall~~ must be designed to minimize infiltration and to prevent the entrance of roots throughout the life of the system.~~ Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications~~ For assistance in designing such specifications, see "Idaho Standards for Public Works Construction," referenced in Section 008. ~~(3-31-22)~~( )

ii. Service connections to the wastewater pipeline main~~ shall~~ must be~~ water tight~~ watertight and not protrude into the wastewater pipelines. If a saddle type connection is used, it~~ shall~~ must be a device designed to join with the types of pipe which are to be connected. All materials used to make service connections~~ shall~~ must be compatible with each other and with the pipe materials to be joined and~~ shall~~ must be corrosion proof. ~~(3-31-22)~~( )

h. ~~Manholes.~~ Manholes~~ shall~~ must be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections. Cleanouts may not be used~~ only for special conditions~~ unless otherwise approved by the Department and~~ shall~~ may not be substituted for manholes nor installed at the end of laterals greater than one hundred fifty (150) feet in length. ~~(3-31-22)~~( )

i. ~~Testing.~~ Testing~~ shall~~ must conform with Section 501.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference~~ into these rules at~~ in Section 004. ~~(3-31-22)~~( )

j. ~~Inverted Siphons.~~ Inverted siphons~~ shall have~~ may not have less than two (2) barrels or pipes.~~ They shall~~ and will be provided with necessary appurtenances for maintenance, convenient flushing, and cleaning equipment. Design~~ shall~~ must provide sufficient head and appropriate pipe sizes to secure sufficient velocities for design~~ average~~ flow~~s~~. ~~(3-31-22)~~( )

k. ~~Wastewater Pipelines in Relation to Surface Water Bodies.~~ The top of all wastewater pipelines entering or crossing surface water bodies~~ shall~~ must be at a sufficient depth below the natural bottom of the bed or otherwise designed to protect the wastewater pipeline. ~~(3-31-22)~~( )

i. Wastewater pipelines located adjacent to surface water bodies~~ shall~~ must be located outside of the bed and sufficiently removed therefrom to provide for future possible stream widening and to prevent pollution by siltation during construction. ~~(3-31-22)~~( )

ii. ~~Structures.~~ Wastewater pipeline outfalls, headwalls, manholes, gate boxes, or other structures~~ shall~~ must be designed to address anticipated flood flows of the surface water bodies. ~~(3-31-22)~~( )

iii. ~~Alignment.~~ Wastewater pipelines crossing surface water bodies should be designed to cross the surface water body as nearly perpendicular to the surface water body flow as possible and~~ shall~~ must be free from change in grade. ~~(3-31-22)~~( )

iv. ~~Materials.~~ Wastewater pipelines entering or crossing surface water bodies~~ shall~~ must be constructed of water transmission pressure rated pipe with restrained joints conforming to Section 401.2.9 of the "Idaho Standards for Public Works Construction," incorporated by reference~~ into these rules at~~ in Section 004, or other suitable pipe with restrained joints capable of being installed to remain watertight and free from changes in alignment or grade. Material used to back-fill the trench~~ shall~~ must be concrete slurry, stone, coarse aggregate, washed gravel, or other materials which will not readily erode, cause siltation, damage pipe during placement, or corrode the pipe. ~~(3-31-22)~~( )

v. ~~Siltation and Erosion.~~ Construction methods that will minimize siltation and erosion~~ shall~~ must be employed. ~~(3-31-22)~~( )

l. ~~Aerial Crossings.~~ Support~~ shall~~ must be provided for all joints in pipes utilized for aerial crossings. Restrained joints or structural casings are required. ~~(3-31-22)~~( )

m. ~~Cross-Connections Prohibited.~~ There ~~shall~~ may be no physical connections between a public or private potable water supply system and a wastewater pipeline, or appurtenance thereto, which would permit the passage of any wastewater or polluted water into the potable supply. No water pipe ~~shall~~ may pass through or ~~come into~~ contact ~~with~~ any part of a wastewater pipeline manhole. ~~(3-31-22)~~( )

n. ~~Protection of Water Sources, Supplies.~~ When wastewater pipelines are proposed in the vicinity of any existing public or private drinking water sources or supplies or other drinking water facilities, ~~requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," shall be used to confirm acceptable isolation distances~~, excluding potable pipelines, the following separation distances must be maintained. ~~(3-31-22)~~( )

i. Pressure wastewater mains will not be closer horizontally than one hundred (100) feet. ( )

ii. Gravity wastewater mains will not be closer horizontally than fifty (50) feet. ( )

iii. Wastewater service lines will not be closer horizontally than fifty (50) feet from any public water system source. ( )

iv. Wastewater service lines will not be closer horizontally than twenty-five (25) feet from private drinking water sources and other drinking water facilities. ( )

o. ~~Non-Potable Pipelines in Relation to Potable Water Pipelines. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 430.02.o.i. and 430.02.o.ii. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority~~The requirements for the protection of potable pipelines from contamination by non-potable pipelines are described in Subsections 430.02.o.ii. and 430.02.o.iii. For this subsection, the term "pipeline" applies to both mains and services. Raw water pipelines must meet equivalent separation distances of Subsections 430.02.o.ii. through 430.02.o.iv. from either potable or non-potable pipelines. ~~(3-31-22)~~( )

i. Alternative separation distances may be considered for Subsections 430.02.o.ii. through 430.02.o.iii. on a case-by-case basis when considering constructability, public health risk, environmental risk, and cost. The design engineer must submit data to the Department for review and approval showing that the proposed installation will be protective of public health and the environment. ( )

ii. Parallel installation requirements. (3-31-22)

(1) Non-potable mains in relation to potable mains: (3-31-22)

(a) Greater than ten (10) feet separation: no additional requirements ~~based on separation distance~~. ~~(3-31-22)~~( )

(b) Ten (10) feet to six (6) feet separation: separate trenches, with the bottom of the potable main above the top of the non-potable main, and non-potable main constructed with ~~potable water~~ potable water class pipe. ~~(3-31-22)~~( )

~~(c) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval that this installation will protect public health and environment and non-potable main constructed with potable water class pipe.~~ ~~(3-31-22)~~

(~~d~~c) Non-potable mains are prohibited from being located in the same trench as potable mains. (3-31-22)

~~(e) Pressure sewage mains shall be no closer horizontally than ten (10) feet from potable mains.~~ ~~(3-31-22)~~

(2) ~~New n~~Non-potable services in relation to potable ~~services, new non-~~ pipelines and potable services

in relation to non-potable ~~mains, and new potable services in relation to non-potable mains~~ pipelines.~~(3-31-22)~~( )

(a) Greater than six (6) feet separation: no additional requirements~~ based on separation distances~~. ~~(3-31-22)~~( )

~~(b) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (3-31-22)~~

(~~e~~b) ~~New~~ Non-potable services are prohibited from being located in the same trench as ~~non-~~potable ~~mains or non-potable services~~ pipelines. ~~(3-31-22)~~( )

ii~~i~~. Requirements for potable water ~~mains or services~~ pipelines crossing non-potable ~~mains or services~~ pipelines. Crossings must be perpendicular, unless otherwise approved by the Department. ~~For the purposes of Subsection 430.02.o.ii., the term "pipeline" applies to both mains and services.~~ ~~(3-31-22)~~( )

(1) If there are ~~E~~eighteen (18) inches or more vertical separation with the potable water pipeline above the non-potable pipeline~~:~~, then the ~~non-~~potable pipeline joints must ~~to~~ be as far as possible from the non-potable water pipeline. ~~(3-31-22)~~( )

(2) If there are ~~E~~eighteen (18) inches or more vertical separation with the potable water pipeline below the non-potable pipeline~~:~~, then the ~~Non-~~potable pipeline joints must ~~to~~ be as far as possible from the non-potable ~~water~~ pipeline, and the non-potable pipeline must be supported through the crossing to prevent settling. ~~(3-31-22)~~( )

(3) Less than eighteen (18) inches vertical separation: (3-31-22)

(a) ~~Non-p~~Potable pipeline joints must ~~to~~ be as far as possible from the non-potable ~~water~~ pipeline; and either: ~~(3-31-22)~~( )

(b) Non-potable pipeline must be constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or ~~(3-31-22)~~( )

(c) ~~Sleeve~~Either the non-potable or potable pipeline must be sleeved with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. ~~(3-31-22)~~( )

(d) If the potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling. (3-31-22)

~~(4) Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains. (3-31-22)~~

~~iii. Existing potable services in relation to new non-potable mains, existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 430.02.o.ii., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 430.02.o.ii. (3-31-22)~~

iv. Non-potable pressure pipelines must not be: ( )

(1) Closer horizontally than ten (10) feet from potable pipelines; and ( )

(2) Closer vertically than eighteen (18) inches from potable pipelines. ( )

v. New non-potable wastewater mains or non-potable wastewater mains undergoing material

modification must be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. ( )

431. -- 439. (RESERVED)

440. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: WASTEWATER PUMPING STATIONS.

01. General. Section 440 regulates ~~both public and private~~ municipal wastewater collection pump stations and ~~does~~ not ~~regulate~~ individual residence pump stations, individual residence grinder pump stations, or individual residence septic tank effluent pump stations. See Section 441 for regulation of those types of pump stations. ~~(3-31-22)~~( )

a. ~~Flooding.~~ Wastewater pumping station structures and electrical and mechanical equipment ~~shall~~ must be protected from physical damage by the one hundred (100) year flood. Wastewater pumping stations ~~shall~~ must remain fully operational and accessible during the twenty-five (25) year flood. Regulations of state and federal agencies regarding flood plain obstructions shall be considered. ~~(3-31-22)~~( )

b. ~~Accessibility and Security.~~ The pumping station ~~shall~~ must be accessible by maintenance vehicles during all weather conditions. ~~(3-31-22)~~( )

c. ~~Grit.~~ The wet well and pump station piping ~~shall~~ must be designed to avoid operational problems from the accumulation of grit. ~~(3-31-22)~~( )

d. ~~Safety.~~ Provisions ~~shall~~ must be made to consider the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. See also Subsection 450.07. ~~(3-31-22)~~( )

02. Design. Design of wastewater pumping stations ~~shall~~ must meet the applicable ~~requirements~~ provisions of Subsections 440.02.a. through 440.02.i. ~~(3-31-22)~~( )

~~**a.** Type. Wastewater pumping stations in general use fall into four types: wet well/dry well, submersible, suction lift, and screw pump.~~ ~~(3-31-22)~~

~~**b**~~**a.** ~~Structures~~Construction materials used for pumping station structures must be appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. ~~(3-31-22)~~( )

i. ~~Separation.~~ Dry wells ~~shall~~ must be completely separated from the wet well. Common walls must be gas tight. ~~(3-31-22)~~( )

ii. ~~Equipment Removal.~~ Provisions ~~shall~~ must be made to facilitate removing pumps, motors, and other mechanical and electrical equipment. Individual pump and motor removal must not interfere with the continued operation of remaining pumps~~.~~ ~~(3-31-22)~~

~~iii. Access and Safety Landings.~~ ~~(3-31-22)~~

~~(1)~~ ~~Access.~~ Suitable means of access for maintenance personnel wearing self-contained breathing apparatus ~~shall~~ must be provided to dry wells and to wet wells. See also Subsection 450.07. ~~(3-31-22)~~( )

~~(2) Safety Landings. Section 009 provides a reference to requirements of the Occupational Safety and Health Administration (OSHA), compliance with which may be required by other law.~~ ~~(3-31-22)~~

i~~v~~ii. ~~Buoyancy.~~ Where high groundwater conditions are anticipated, buoyancy of the wastewater pumping station structures ~~shall~~ must be considered and, if necessary, adequate provisions ~~shall be~~ made for protection. ~~(3-31-22)~~( )

~~v. Construction Materials. Materials shall be selected that are appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. This is particularly important in the selection of metals and paints.~~ ~~(3-31-22)~~

iv. Dry wells must be equipped with a positive means for dewatering. ( )

~~c. Pumps.~~ ~~(3-31-22)~~

~~i~~**b.** ~~Multiple Units.~~ Multiple pumps ~~shall~~ must be provided. ~~Units shall~~ Pumps must have capacity such that, with any ~~unit~~ pump out of service, the remaining ~~units~~ pumps will have capacity to handle the design peak hour~~ly~~ flow. ~~(3-31-22)~~( )

i~~i~~. ~~Protection Against Clogging.~~ Pumps (except screw pumps) handling separate sanitary wastewater from thirty (30) inch or larger diameter sewers ~~shall~~ must be protected by bar racks. Appropriate protection from clogging ~~shall~~ must also be considered for small pumping stations. ~~(3-31-22)~~( )

ii~~i~~. ~~Pump Openings.~~ Pumps handling unscreened raw wastewater ~~shall~~ must be capable of passing spheres of at least three (3) inches in diameter ~~or be a grinder pump~~ Pump suction and discharge openings must be at least four (4) inches in diameter. An exception to the requirement for passing solid spheres of at least three (3) inches in diameter may be made on a case-by-case basis when approved by the Department based on equivalent protection from clogging or damage, such as grinder pumps. ~~(3-31-22)~~( )

iv~~ii~~. ~~Priming.~~ The pump ~~shall~~ must be placed so that, under normal operating conditions, it will operate under a positive suction head, except as specified in Subsection 440.03. ~~(3-31-22)~~( )

iv. ~~Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law~~Electrical equipment must comply with local and state codes. ~~(3-31-22)~~( )

v~~i~~. ~~Intake. Section 008 provides a reference to the~~Design of intakes may use American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design. ~~(3-31-22)~~( )

~~vii. Dry Well Dewatering. Dry wells shall be equipped with a positive means for dewatering.~~ ~~(3-31-22)~~

vi~~ii~~. ~~Pumping Rates.~~ The pumps and controls ~~of main pumping stations shall~~ must be ~~selected~~ designed to operate with varying ~~rates~~ wastewater flows into the wet well. The pump control system design ~~shall take into~~ must account for, and minimize ~~as needed~~, downstream impact of pump discharge hydraulic surges. The station design capacity ~~shall~~ must be based on peak hourly flow as determined in accordance with Section 411 and ~~shall~~ must be adequate to maintain a velocity in the force main sufficient to avoid solids deposition. ~~See Subsection 440.09.~~ ~~(3-31-22)~~( )

~~d~~**c.** ~~Controls.~~ Water level control sensing devices ~~shall~~ must be designed to allow for automatic control of pumps. ~~(3-31-22)~~( )

~~e~~**d.** ~~Valves~~Suitable shutoff and check valves must be placed on the discharge line of each pump (except on screw pumps). The check valve must be located between the shutoff valve and the pump. Check valves must be suitable for the material being handled and placed on the horizontal portion of the discharge piping except for ball checks, which may be placed in the vertical run. Valves must be capable of withstanding normal pressure and water hammer. All shutoff and check valves must be operable from the floor level and accessible for maintenance. Outside levers are recommended on swing check valves. ~~(3-31-22)~~( )

~~i~~**e.** ~~Suction Line.~~ Suitable shutoff valves ~~shall~~ must be placed on the suction lines of dry pit pumps. ~~(3-31-22)~~( )

~~ii. Discharge Line. Suitable shutoff and check valves shall be placed on the discharge line of each pump (except on screw pumps). The check valve shall be located between the shutoff valve and the pump. Check~~

~~valves shall be suitable for the material being handled and shall be placed on the horizontal portion of the discharge piping except for ball checks, which may be placed in the vertical run. Valves shall be capable of withstanding normal pressure and water hammer. All shutoff and check valves shall be operable from the floor level and accessible for maintenance. Outside levers are recommended on swing check valves.~~ ~~(3-31-22)~~

f. Wet Wells. (3-31-22)

i. ~~Section 008 provides a reference to t~~The American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design may be used as a guidance ~~document~~ for design of wet wells. ~~(3-31-22)~~( )

ii. ~~Air Displacement.~~ Covered wet wells ~~shall~~ must have provisions for air displacement to the atmosphere, such as an inverted "j" tube or other means. ~~(3-31-22)~~( )

g. ~~Safety Ventilation.~~ Adequate ventilation ~~shall~~ must be provided for all pump stations unless access is provided using confined space entry procedures. Where the dry well is below the ground surface, mechanical ventilation ~~is required~~ must be provided. If screens or mechanical equipment requiring maintenance or inspection are ~~located~~ in the wet well, permanently installed ventilation ~~is required~~ must be provided. There ~~shall~~ may be no interconnection between the wet well and dry well ventilation systems. ~~Section 008 provides a reference to guidance documents; see Subsection 008.11.~~ ~~(3-31-22)~~( )

h. ~~Flow Measurement.~~ Suitable methods for measuring wastewater flow ~~shall~~ must be ~~addressed~~ provided at all pumping stations. ~~(3-31-22)~~( )

i. ~~Water Supply.~~ There ~~shall~~ may be no physical connection between any potable water supply and a wastewater pumping station which, under any conditions, might cause contamination of the potable water supply. If a potable water supply connection is made to the station, the connection ~~shall~~ must comply with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ~~(3-31-22)~~( )

03. Suction Lift Pump Stations - Special Considerations. Suction lift pumps ~~shall~~ must meet the applicable ~~requirements~~ provisions of Subsection 440.02. ~~(3-31-22)~~( )

a. ~~Pump Priming and Lift Requirements.~~ Suction lift pumps ~~shall~~ must be of the self-priming or vacuum-priming type. Suction lift pump stations using dynamic suction lifts exceeding the limits outlined in Subsections 440.03.b. through 440.03.d. may be approved by the Department upon submission of factory certification of pump performance and detailed calculations indicating satisfactory performance under the proposed operating conditions. ~~(3-31-22)~~( )

b. ~~Self-Priming Pumps.~~ Self-priming pumps ~~shall~~ must be capable of rapid priming and re-priming at the "lead pump on" elevation. ~~Such s~~ Self-priming and re-priming ~~shall~~ must be accomplished automatically under design operating conditions. ~~(3-31-22)~~( )

c. ~~Vacuum-Priming Pumps.~~ Vacuum-priming pump stations ~~shall~~ must be equipped with dual vacuum pumps capable of automatically and completely removing air from the suction lift pump. The vacuum pumps ~~shall~~ must be adequately protected from damage due to wastewater. The combined total of dynamic suction lift at the "pump off" elevation and required net positive suction head at design operating conditions ~~shall~~ must not exceed twenty-two (22) feet. ~~(3-31-22)~~( )

d. ~~Equipment, Wet Well Access, and Valving Location.~~ The pump equipment compartment ~~shall~~ must be above grade or offset and ~~shall~~ be effectively isolated from the wet well to prevent a hazardous and corrosive sewer atmosphere from entering the equipment compartment. Wet well access ~~shall~~ may not be through the equipment compartment and ~~shall~~ must be at least twenty-four (24) inches in diameter. Gasketed replacement plates ~~shall~~ must be provided to cover the opening to the wet well for pump units removed for servicing. Valving ~~shall~~ may not be ~~located~~ in the wet well. ~~(3-31-22)~~( )

04. Submersible Pump Stations - Special Considerations. Submersible pump stations ~~shall~~ must meet the applicable ~~requirements~~ provisions of Subsection 440.02, except as modified in Subsection 440.04.

~~(3-31-22)~~( )

a. ~~Construction.~~ Submersible pumps and motors ~~shall~~ must be designed specifically for raw wastewater use, including totally submerged operation during a portion of each pumping cycle. An effective method to detect shaft seal failure ~~shall~~ must be provided. ~~(3-31-22)~~( )

b. ~~Pump Removal.~~ Submersible pumps ~~shall~~ must be readily removable and replaceable without personnel entering or dewatering the wet well, or disconnecting any piping in the wet well. ~~(3-31-22)~~( )

c. ~~Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law.~~Electrical equipment must comply with local and state codes. ~~(3-31-22)~~( )

i. ~~Power Supply and Control Circuitry.~~ Electrical supply, control, and alarm circuits ~~shall~~ must be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors ~~shall~~ must be protected from corrosion by location outside the wet well or through use of watertight seals. ~~(3-31-22)~~( )

ii. ~~Controls.~~ The motor control center ~~shall~~ must be located outside the wet well, ~~be~~ readily accessible, and be protected by a conduit seal or other appropriate measures to prevent the atmosphere of the wet well from gaining access to the control center. The seal ~~shall~~ must be located so that the motor may be removed and electrically disconnected without disturbing the seal. ~~When such equipment is exposed to weather, it is recommended that it meet the requirements of weatherproof equipment NEMA 3R or 4.~~ ~~(3-31-22)~~( )

iii. ~~Power Cord.~~ Pump motor power cords ~~shall~~ must be designed for flexibility and serviceability under conditions of extra hard usage. Ground fault interruption protection ~~shall~~ must be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable. Power cord terminal fittings ~~shall~~ must be corrosion-resistant and constructed ~~in a manner~~ to prevent the entry of moisture into the cable, ~~shall be~~ provided with strain relief appurtenances, and ~~shall be~~ designed to facilitate field connecting. ~~(3-31-22)~~( )

d. ~~Valves.~~ Valves required under Subsection 440.02 ~~shall~~ must be ~~located~~ in a separate valve chamber. Provisions ~~shall~~ must be made to remove or drain accumulated water from the valve chamber. The valve chamber may be dewatered to the wet well through a drain line with a gas and water tight valve. Check valves that are integral to the pump need not be ~~located~~ in a separate valve chamber provided that the valve can be removed from the wet well in accordance with Subsection 440.04. Access ~~shall~~ must be provided in accordance with Subsection 440.02. ~~(3-31-22)~~( )

05. Screw Pump Stations - Special Considerations. Screw pump stations ~~shall~~ must meet the applicable ~~requirements~~ provisions of Subsection 440.02. ~~(3-31-22)~~( )

a. ~~Covers.~~ Covers or other means of excluding direct sunlight ~~shall~~ must be provided as necessary to eliminate adverse effects from temperature changes. ~~(3-31-22)~~( )

b. ~~Pump Wells.~~ A positive means of isolating individual screw pump wells ~~shall~~ must be provided. ~~(3-31-22)~~( )

c. ~~Bearings.~~ Submerged bearings ~~shall~~ must be lubricated by an automated system without pump well dewatering. ~~(3-31-22)~~( )

06. Alarm Systems. Alarm systems with a backup power source ~~shall~~ must be provided for pumping stations. The alarm ~~shall~~ must be activated in cases of power failure, dry well sump and wet well high water levels, pump failure, pump clogging unauthorized entry, or other cause of pump station malfunction. Pumping station alarms, including identification of the alarm condition, ~~shall~~ must be transmitted to a twenty-four (24) hour response center. Audio-visual alarm systems may be ~~acceptable in some cases in lieu of a transmitting system depending~~ approved by the Department based upon location, station holding capacity, and inspection frequency. ~~(3-31-22)~~( )

07. Emergency Operation. (3-31-22)

a. ~~Objective. The objective of e~~Emergency operation for pump stations is required to prevent the unintended discharge of raw or partially treated wastewater to any waters or land surface and to protect public health by preventing back up of wastewater and subsequent discharge to basements, streets, and other public and private property. ~~(3-31-22)~~( )

b. ~~Emergency Pumping Capability.~~ Emergency pumping capability is required for all new ~~lift~~ pumping stations constructed after April 15, 2007. Emergency pumping capability is required for all existing ~~lift~~ pumping stations that undergo a material modification ~~or expansion~~ unless overall system reliability can be proven adequate to the Department as shown in Subsections 440.07.b.i. and 440.07.b.ii. ~~or overflow prevention is provided by adequate emergency storage capacity as defined in these rules. If required, emergency pumping capability shall be accomplished by connection of the station to at least two (2) independent utility substations as determined by and stated in a letter from the appropriate power provider, by provision of portable or in-place internal combustion engine equipment which will generate electrical or mechanical energy, or by the provision of portable pumping equipment. Such emergency standby systems shall have sufficient capacity to start up and maintain the total rated running capacity of the station. Regardless of the type of emergency standby system provided, a portable pump connection to the force main with rapid connection capabilities and appropriate valving shall be provided outside the dry well and wet well~~. ~~(3-31-22)~~( )

i. System reliability is ~~considered~~ adequate for an existing pumping station undergoing material modification if power grid outages average three (3) or less per year based on data for the three (3) previous years with no more than six (6) outages in a single year. ~~(3-31-22)~~( )

ii. Outage duration averages less than four (4) hours based on data for the three (3) previous years, with no~~t~~ more than one (1) outage during the three (3) previous year period exceeding eight (8) hours. Power loss for at least thirty (30) minutes qualifies as an outage. ~~(3-31-22)~~( )

c. ~~Equipment Requirements~~Emergency pumping capability must be accomplished by either connection of the station to at least two (2) independent utility substations as determined by and stated in a letter from the appropriate power provider, by provision of portable, or in-place internal combustion engine equipment which will generate electrical or mechanical energy, or by the provision of portable pumping equipment. Such emergency standby systems must have sufficient capacity to start up and maintain the total rated running capacity of the station. Regardless of the type of emergency standby system provided, a portable pump connection to the force main with rapid connection capabilities and appropriate valving must be provided outside the dry well and wet well. ~~(3-31-22)~~( )

i. ~~General.~~ The following general requirements ~~shall~~ apply to all internal combustion engines used to drive auxiliary pumps, service pumps through special drives, or electrical power generating equipment~~:~~. ~~(3-31-22)~~( )

(1) ~~Engine Protection.~~ The engine must be protected from operating conditions that would result in damage to equipment. Unless continuous manual supervision is planned, protective equipment ~~shall~~ must be capable of shutting down the engine and activating an alarm on site and as provided in Subsection 440.06. Protective equipment ~~shall~~ must monitor for conditions of low oil pressure and overheating, except that oil pressure monitoring ~~will~~ is not ~~be~~ required for engines with splash lubrication. ~~(3-31-22)~~( )

(2) ~~Size.~~ The engine ~~shall~~ must have adequate rated power to start and continuously operate under all connected loads. ~~(3-31-22)~~( )

(3) ~~Fuel Type.~~ Reliability and ease of starting, especially during cold weather conditions, ~~shall~~ must be addressed in the selection of the type of fuel. ~~(3-31-22)~~( )

(4) ~~Fuel Storage.~~ Fuel storage and piping facilities if provided ~~shall~~ must be constructed in accordance with applicable state and federal regulations. ~~(3-31-22)~~( )

(5) ~~Engine Ventilation.~~ The engine ~~shall~~ must have adequate ventilation of fuel vapors and exhaust gases. ~~(3-31-22)~~( )

(6) ~~Routine Start-up.~~ All emergency equipment ~~shall~~ must be provided with instructions indicating the need for regular starting and running of such units at full loads. ~~(3-31-22)~~( )

(7) Protection of Equipment. Emergency equipment ~~shall~~ must be protected from damage at the restoration of regular electrical power. ~~(3-31-22)~~( )

ii. ~~Engine-Driven Pumping Equipment.~~ Where permanently-installed or portable engine-driven pumps are used, the following requirements in addition to ~~general requirements shall~~ the provisions of Subsection 440.07.c.i. apply. ~~(3-31-22)~~( )

(1) ~~Pumping Capacity.~~ Engine-driven pumps ~~shall~~ must meet the design pumping requirements unless storage capacity is available for flows in excess of pump capacity. Pumps ~~shall~~ must be designed for anticipated operating conditions, including suction lift if applicable. ~~(3-31-22)~~( )

(2) ~~Operation.~~ The engine and pump ~~shall~~ must be equipped to provide automatic start-up and operation of pumping equipment unless manual start-up and operation is justified. Provisions ~~shall~~ must also be made for manual start-up. Where manual start-up and operation is justified, storage capacity and alarm system must meet the ~~requirements~~ provisions of Subsection 440.07.~~c.ii(3)~~d.iii. ~~(3-31-22)~~( )

(3) ~~Portable Pumping Equipment.~~ Where part or all ~~of the~~ engine-driven pumping equipment is portable, adequate emergency storage capacity as defined in Section 010 with alarm system ~~shall~~ must be provided to allow time for detection of pump station failure and transportation and hookup of the portable equipment. ~~(3-31-22)~~( )

iii. ~~Engine-Driven Generating Equipment.~~ Where permanently-installed or portable engine-driven power generating equipment is used, the following requirements ~~shall~~ apply in addition to the ~~general requirements~~ provisions of Subsection 440.07.c.i. ~~(3-31-22)~~( )

~~(1) Generating Capacity.~~ ~~(3-31-22)~~

(~~a~~1) Power ~~G~~generating unit size ~~shall~~ must be adequate to provide power for pump motor starting current and for lighting, ventilation, and other auxiliary equipment necessary for safety and proper operation of the ~~lift~~ pumping station. ~~(3-31-22)~~( )

(~~b~~2) The operation of only one pump during periods of auxiliary power supply must be justified. ~~Such justification may be made on the basis of~~ based on the design peak hourly flows relative to single-pump capacity, anticipated length of power outage, and storage capacity. ~~(3-31-22)~~( )

(~~c~~3) Manual or special sequencing controls ~~shall~~ must be provided to start pump motors unless the power generating equipment has capacity to start all pumps simultaneously with auxiliary equipment operating. ~~(3-31-22)~~( )

(~~2~~4) ~~Operation.~~ Provisions ~~shall~~ must be made for automatic and manual startup and load transfer unless only manual start-up and operation is justified. Automatic transfer switches ~~shall~~ must be UL listed and meet NEC requirements. The generator must be protected from operating conditions that would result in damage to equipment. Provisions ~~shall~~ must be made to allow the engine to start and stabilize at operating speed before assuming the load. Where manual start-up and transfer is justified, the storage capacity and alarm system must meet the ~~requirements~~ provisions of Subsection 440.07.~~c.iii.(3)~~c.iii. ~~(3-31-22)~~( )

(~~3~~5) ~~Portable Generating Equipment.~~ Where portable power generating equipment and manual transfer is provided, adequate emergency storage capacity as defined in Section 010 with alarm system ~~shall~~ must be provided to allow time for detection of pump station failure and transportation and connection of power generating equipment. Special electrical connections and double throw switches ~~shall~~ must be provided for connecting portable power generating equipment. Manual transfer switches ~~shall~~ must be UL listed and meet NEC requirements. ~~(3-31-22)~~( )

iv. ~~Independent Utility Substations.~~ Where independent power substations are used for emergency

power, each separate substation and its associated transmission lines ~~shall~~ must be capable of starting and operating the pump station at its rated capacity. ~~(3-31-22)~~( )

~~08. Instructions and Equipment. Wastewater pumping stations and portable equipment shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary.~~ ~~(3-31-22)~~

0~~9~~8. **Operation and Maintenance**. (3-31-22)

a. An operation and maintenance manual ~~shall~~ must be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual ~~shall be~~ is required. The owner ~~shall be~~ is responsible for maintaining the ~~wastewater facility~~ pump station in a manner that ~~assures~~ ensures its designed operation. ~~(3-31-22)~~( )

b. For new privately owned municipal wastewater collection pump stations, documents that detail the technical, managerial, and financial capabilities of the private entity to properly operate and maintain said pump station for the long term ~~shall~~ must be submitted to the Department ~~for approval prior to operation~~ in accordance with Section 409. ~~(3-31-22)~~( )

~~10~~09. **Force Mains**. (3-31-22)

a. ~~Velocity and Diameter. At design pumping rates, a~~A cleansing velocity of at least two (2) feet per second ~~shall~~ must be maintained within force mains at the design pumping rates. ~~(3-31-22)~~( )

b. ~~Air and Vacuum Relief Valve.~~ An air relief valve ~~shall~~ must be placed at high points in the force main to prevent air locking unless otherwise approved by the Department. The force main configuration and head conditions ~~shall~~ must be evaluated ~~as~~ to determine the need for and placement of vacuum relief valves. ~~(3-31-22)~~( )

c. ~~Termination.~~ The force mains from other than individual grinder pump stations ~~shall~~ must enter a receiving manhole. Corrosion protection for the receiving manhole ~~shall~~ must be provided. Control of odors at such discharge points ~~shall~~ must be evaluated. ~~(3-31-22)~~( )

d. ~~Pipe and Design Pressure.~~ Pipe and joints ~~shall~~ must be equal to water main strength materials suitable for design conditions. The force main, reaction blocking, thrust restraint, and station piping ~~shall~~ must be designed to withstand water hammer pressures and associated cyclic reversal of stresses that are expected with the cycling of wastewater ~~lift~~ pumping stations. If necessary ~~T~~the use of surge valves, surge tanks, or other suitable means to protect the force main against severe pressure changes ~~shall~~ must be evaluated. ~~(3-31-22)~~( )

e. ~~Special Construction.~~ Force main construction near streams or water works structures and at water main crossings ~~shall~~ must meet applicable provisions of Section 430. ~~(3-31-22)~~( )

f. Design ~~F~~friction ~~L~~losses must be in accordance with an approved PER pursuant to Section 411.03.c. ~~(3-31-22)~~( )

~~i. Friction Coefficient. Friction losses through force mains shall be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of "C" shall be evaluated for different types and ages of pipe.~~ ~~(3-31-22)~~

~~ii. Maximum Power Requirements. When initially installed, force mains will have a significantly higher "C" factor. The effect of the higher "C" factor shall be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities shall also be considered.~~ ~~(3-31-22)~~

g. ~~Identification.~~ Where force mains are constructed of material which might cause the force main to be confused with potable water mains, the force main ~~shall~~ must be appropriately identified using trench tape saying, "raw sewage," "biohazard," or other appropriate wording. ~~(3-31-22)~~( )

h. ~~Leakage Testing.~~ Leakage tests ~~shall~~ must be specified including testing methods and leakage limits. Testing ~~shall~~ must conform with Sections 401.3.6 and 505.3.3 of the "Idaho Standards for Public Works Construction," incorporated by reference ~~into these rules at~~ in Section 004. ~~(3-31-22)~~( )

i. ~~Thrust Blocking or Restraint.~~ Thrust blocking or restraint ~~shall~~ must conform with Sections 401.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference ~~into these rules at~~ in Section 004, or specific calculations reviewed and approved by the Department. ~~(3-31-22)~~( )

j. ~~Maintenance Considerations.~~ Isolation valves ~~shall~~ must be used if force mains connect into a common force main. ~~(3-31-22)~~( )

k. ~~Cover.~~ Force mains ~~shall~~ must be covered with sufficient earth or other insulation to prevent freezing or other physical damage. ~~(3-31-22)~~( )

441. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: INDIVIDUAL ~~RESIDENCE~~ SERVICE CONNECTION WASTEWATER PUMPING STATIONS.

01. General. Section 441 regulates individual ~~residence~~ service connection pump stations~~,~~ including individual ~~residence~~ grinder pump stations~~,~~ and individual ~~residence~~ septic tank effluent pump stations. ~~However, this rule does not regulate grinder pumps or their vaults that are inside of individual residences or other structures.~~ Certain individual ~~residence~~ service connection wastewater pumping stations may be under the jurisdiction of the Idaho Division of ~~Building Safety, Plumbing Bureau. For further defining and delineating of the Plumbing Bureau's and the Department's statutory and regulatory duties and responsibilities with respect to individual residence wastewater pumping stations, see the Memorandum of Understanding referred to in Section 008~~Occupational and Professional Licensing. ~~(3-31-22)~~( )

a. ~~Flooding.~~ Wastewater pumping station structures and electrical and mechanical equipment ~~shall~~ must be protected from physical damage by the one hundred (100) year flood. Wastewater pumping stations ~~shall~~ must remain fully operational and accessible during the twenty-five (25) year flood. Local, state and federal flood plain regulations ~~shall~~ must be considered. ~~(3-31-22)~~( )

b. ~~Accessibility and Security.~~ The pumping station ~~shall~~ must be accessible by maintenance vehicles during all weather conditions. (3-31-22)

02. Design. Design of wastewater pumping stations ~~shall~~ must meet the applicable requirements of Subsections 441.02.a. through 441.02.c. ~~(3-31-22)~~( )

~~**a.** Pumps.~~ ~~(3-31-22)~~

~~i~~**a.** ~~Multiple Units.~~ Duplex pumps for individual ~~residence~~ service connection wastewater pump stations are not required. However, for developments having five (5) or more similar facilities, one (1) working spare pump for each size ~~shall be provided and~~ will be readily available at all times. ~~(3-31-22)~~( )

~~i~~i. ~~Pump Openings.~~ Pumps handling raw wastewater ~~shall~~ will be capable of passing spheres of at least three (3) inches in diameter or be a grinder pump. ~~(3-31-22)~~( )

~~ii~~ii. ~~Priming.~~ The pump ~~shall~~ will be placed so that, under normal operating conditions, it will operate under a positive suction head. ~~(3-31-22)~~( )

b. ~~Controls.~~ Water level control sensing devices ~~shall~~ will be designed to allow for automatic control of pumps. ~~(3-31-22)~~( )

c. ~~Valves.~~ Suitable means to facilitate pump removal and to prevent backflow shall be provided. All shutoff and check valves ~~shall~~ will be accessible for maintenance. ~~(3-31-22)~~( )

03. Submersible Pump Stations - Special Considerations. (3-31-22)

a. ~~Construction.~~ Submersible pumps and motors ~~shall~~ must be designed specifically for ~~raw~~ wastewater ~~use~~, including totally submerged operation during a portion of each pumping cycle. An effective method to detect shaft seal failure or potential seal failure ~~shall~~ must be provided. ~~(3-31-22)~~( )

b. ~~Pump Removal.~~ Submersible pumps ~~shall~~ must be readily removable and replaceable without personnel entering or dewatering the wet well, or disconnecting any piping in the wet well. ~~(3-31-22)~~( )

c. ~~Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law~~Electrical equipment must comply with local and state codes. ~~(3-31-22)~~( )

i. ~~Power Supply and Control Circuitry.~~ Electrical supply, control, and alarm circuits ~~shall~~ must be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors ~~shall~~ must be protected from corrosion by location outside the wet well or through use of watertight seals. ~~(3-31-22)~~( )

ii. ~~Controls.~~ The motor control center ~~shall~~ must be ~~located~~ outside the wet well, ~~be~~ readily accessible, and be protected by a conduit seal or other appropriate measures to prevent the atmosphere of the wet well from gaining access to the control center. The seal ~~shall~~ must be located so that the motor may be removed and electrically disconnected without disturbing the seal. ~~When such equipment is exposed to weather, it is recommended that it meet the requirements of weatherproof equipment NEMA 3R or 4.~~ ~~(3-31-22)~~( )

iii. ~~Power Cord.~~ Pump motor power cords ~~shall~~ must be designed for flexibility and serviceability under conditions of extra hard usage. Ground fault interruption protection ~~shall~~ must be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable. Power cord terminal fittings ~~shall~~ must be corrosion-resistant and constructed in a manner to prevent the entry of moisture into the cable, ~~shall be~~ provided with strain relief appurtenances, and ~~shall be~~ designed to facilitate field connecting. ~~(3-31-22)~~( )

04. Alarm Systems. Audio-visual alarm systems with a backup power source ~~shall~~ must be provided for pumping stations. The alarm ~~shall~~ must be activated in cases of wet well high water levels and ~~shall be~~ visible from the outside of the structure. ~~(3-31-22)~~( )

05. Emergency Operation. The pumping station must be sized to allow for one (1) day's flow between the high water alarm and the building service invert or the pressure discharge pipe, whichever is closer to the high water alarm. (3-31-22)

~~**06. Instructions and Equipment**. Wastewater pumping stations shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary.~~ ~~(3-31-22)~~

0~~7~~6. Operation and Maintenance. An operation and maintenance manual ~~shall~~ must be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual ~~shall be~~ is required. The owner ~~shall be~~ of the individual service connection wastewater pumping station is responsible for maintaining the ~~wastewater facility~~ pumping station in a manner that assures its designed operation. The owner of the wastewater pumping station must be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary. ~~(3-31-22)~~( )

0~~8~~7. Force Mains. (3-31-22)

a. ~~Velocity and Diameter. At design pumping rates, a~~A cleansing velocity of at least two (2) feet per second ~~shall~~ must be maintained within force mains at the design pumping rates. If the force main conveys effluent from a septic tank effluent pump system, a cleansing velocity of at least one (1) feet per second must be maintained at the design pumping rates. ~~(3-31-22)~~( )

b. ~~Special Construction.~~ Force main construction near streams or water works structures and at water ~~main~~ pipeline crossings ~~shall~~ must meet applicable provisions of Section 430. ~~(3-31-22)~~( )

c. Design ~~F~~friction ~~L~~losses must be in accordance with an approved PER pursuant to Section 411.03.c. (3-31-22)

~~i. Friction Coefficient. Friction losses through force mains shall be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of "C" shall be evaluated for different types and ages of pipe. (3-31-22)~~

~~ii. Maximum Power Requirements. When initially installed, force mains will have a significantly higher "C" factor. The effect of the higher "C" factor shall be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities shall also be considered. (3-31-22)~~

d. ~~Identification.~~ Where force mains are constructed of material which might cause the force main to be confused with potable ~~water mains~~ pipeline, the force main ~~shall~~ must be appropriately identified using trench tape saying, "raw sewage," "biohazard," or other appropriate wording. ~~(3-31-22)~~( )

e. ~~Leakage Testing.~~ Leakage tests ~~shall~~ must be specified including testing methods and leakage limits. ~~Testing shall~~ and conform with Sections 401.3.6 and 505.3.3 of the "Idaho Standards for Public Works Construction," incorporated by reference ~~into these rules at~~ in Section 004. ~~(3-31-22)~~( )

f. ~~Thrust Blocking.~~ Thrust blocking ~~shall~~ must conform with Sections 401.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference ~~into these rules at~~ in Section 004. ~~(3-31-22)~~( )

g. ~~Maintenance Considerations.~~ Isolation valves ~~shall~~ must be used if force mains connect into a common force main. ~~(3-31-22)~~( )

h. ~~Cover.~~ Force mains ~~shall~~ must be covered with sufficient earth or other insulation to prevent freezing or other physical damage. ~~(3-31-22)~~( )

442. – 449. (RESERVED)

450. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: WASTEWATER TREATMENT FACILITIES: GENERAL.

01. Plant Location. (3-31-22)

a. ~~General.~~ The ~~preliminary engineering report or~~ PER and facility plan ~~shall~~ must include a detailed discussion for new facilities regarding site selection criteria and alternatives considered. See Sections 410 and 411. ~~(3-31-22)~~( )

b. ~~Flood protection.~~ The treatment plant structures, electrical, and mechanical equipment ~~shall~~ must be protected from physical damage by the one hundred (100) year flood. Treatment plants ~~shall~~ must be designed to remain fully operational and accessible during the one hundred (100) year flood. This requirement applies to new construction and to existing facilities undergoing ~~major~~ material modification. Local, state and federal flood plain regulations ~~shall~~ must be considered. ~~(3-31-22)~~( )

c. ~~Setback distances.~~ Facilities open to the atmosphere such as lagoons, open clarifiers, open aeration basins, and other such facilities ~~shall~~ must be placed a minimum of two hundred (200) feet from residential property lines. ~~If such open facilities are adjacent to property zoned as commercial or industrial, a lesser setback will be considered by the Department on a case by case basis.~~ For totally enclosed facilities with noise and odor controls, the minimum setback ~~shall~~ must be fifty (50) feet ~~if approved by the Department~~. A lesser setback may be considered by the Department on a case by case basis when considering factors including, but not limited to, anticipated land use, property zoning, quality of wastewater, or anticipated odors. Neighboring property owners may grant long term easements or other types of legal documents tied to the land to allow for similar setbacks from future development or public use. ~~(3-31-22)~~( )

02. Quality of Effluent. The ~~required~~ degree of wastewater treatment ~~shall~~ must be based on the effluent requirements ~~and water quality standards~~ established by the responsible state ~~agency and appropriate~~ or federal ~~regulations including discharge permit requirements~~ agency. Combined sewer overflows are not allowed. ~~(3-31-22)~~( )

03. Design. (3-31-22)

a. ~~Type of Treatment.~~ The ~~preliminary engineering report~~ PER or facility plan ~~shall~~ must include a detailed discussion regarding criteria and alternatives considered in ~~selection of~~ selecting the appropriate treatment type ~~of treatment~~. See Sections 410 and 411. The plant design ~~shall~~ must provide the necessary flexibility to perform satisfactorily within the expected range of waste characteristics and volumes. ~~(3-31-22)~~( )

b. ~~Required Engineering Data for New Process and Application Evaluation. The~~Department policy ~~of the Department~~ is to encourage ~~rather than obstruct~~ the development of any valid methods or equipment for treatment of wastewater. The lack of inclusion in these standards of some types of wastewater treatment processes or equipment should not be construed as precluding their use. The Department may approve other types of wastewater treatment processes and equipment that meet the performance standards set forth in these rules under the condition that the operational reliability and effectiveness of the process or device ~~shall~~ must have been demonstrated under similar conditions with a suitably-sized unit operating at its design load conditions, to the extent required. To determine that such new processes and equipment or applications have a reasonable and substantial chance of success, the Department may require the following: ~~(3-31-22)~~( )

i. Monitoring observations, including test results and engineering evaluations, demonstrating the efficiency of such processes. (3-31-22)

ii. Detailed description of the test methods. (3-31-22)

iii. Testing, including ~~appropriately composited~~ appropriately composited samples, under various ranges of strength and flow rates (including diurnal variations) and waste temperatures over a sufficient length of time to demonstrate performance under climatic and other conditions which may be encountered in the area of the proposed installations. ~~(3-31-22)~~( )

iv. ~~Other appropriate information. The Department may require that a~~Appropriate testing be conducted and evaluations be made under the supervision of a competent process engineer other than those employed by the manufacturer or developer. ~~(3-31-22)~~( )

c. ~~Design period.~~ The design period ~~shall~~ must be clearly identified in the ~~preliminary engineering report~~ PER or facility plan ~~as required~~ described in Sections 410 and 411. ~~(3-31-22)~~( )

~~**d.** Design Loads.~~ ~~(3-31-22)~~

~~i~~**d.** Hydraulic ~~D~~design flow conditions critical to the design of the treatment plant must be as described in the PER required by Section 411. ~~(3-31-22)~~( )

~~(1)~~i. ~~Critical Flow Conditions. Flow conditions critical to the design of the treatment plant shall be as described in the preliminary engineering report required by Section 411.~~ Initial low flow conditions must be evaluated in the design to minimize operational problems with freezing, septicity, flow measurements and solids dropout. The appropriate design flows must be considered in evaluating unit processes, pumping, piping, etc. ~~(3-31-22)~~( )

~~(2)~~ii. ~~Treatment Plant Design Capacity.~~ The treatment plant design capacity ~~shall~~ must be as described in the PER as required by Section 411. The plant design flow selected ~~shall~~ must meet the appropriate effluent and water quality standards that are set forth in the discharge or other appropriate permit. For plants subject to high wet weather flows or overflow detention pump-back flows, the design maximum flows that the plant is to treat on a sustained basis ~~shall~~ must be specified. ~~(3-31-22)~~( )

~~(3)~~iii. ~~Flow Equalization.~~ Facilities for the equalization of flows and organic shock load ~~shall~~ must be considered at all plants which are critically affected by surge loadings. ~~(3-31-22)~~( )

~~ii~~e. ~~Organic Design.~~ Organic loadings for wastewater treatment plant design ~~shall~~ must be based on the information provided in the ~~preliminary engineering report required by~~ PER described in Section 411. The effects of septage flow which may be accepted at the ~~plant shall~~ treatment facility must be given consideration and appropriate facilities ~~shall~~ must be included in the design. See Section 520. ~~(3-31-22)~~( )

~~iii~~f. ~~Shock Effects.~~ The shock effects of high concentrations and diurnal peaks for short periods of time on the treatment process, particularly for small treatment plants, ~~shall~~ must be considered. ~~(3-31-22)~~( )

~~e~~g. ~~Conduits.~~ All piping and channels ~~shall~~ must be designed to carry the maximum expected flows. Conduits ~~shall~~ must be designed to avoid creation of pockets and corners where solids can accumulate. ~~(3-31-22)~~( )

~~f~~h. ~~Gates or Valves.~~ Suitable gates or valves ~~shall~~ must be placed in channels to seal off unused sections which might accumulate solids. The use of shear gates, stop plates or stop planks is permitted where they can be used in place of gate valves or sluice gates. Non-corrodible materials ~~shall~~ must be used for control gates and conduits. ~~(3-31-22)~~( )

~~g~~i. ~~Arrangement of Units.~~ Component parts of the plant ~~shall~~ must be arranged for appropriate operating and maintenance convenience, flexibility, economy, continuity of maximum effluent quality, and ease of installation of future units. ~~(3-31-22)~~( )

~~h~~j. ~~Flow Division Control.~~ Flow division control facilities ~~shall~~ must be provided as necessary to ensure organic and hydraulic loading control to plant process units and ~~shall~~ must be designed for easy operator access, change, observation, and maintenance. Appropriate flow measurement facilities ~~shall~~ must be incorporated into the flow division control design. ~~(3-31-22)~~( )

~~i~~k. ~~Odor Management.~~ An odor management plan ~~shall~~ must be submitted to and approved by the Department as a part of the ~~preliminary engineering report~~ PER described in Section 411. The Water Environment Federation Guidance referenced in Section 008 ~~of these rules~~ provides guidance for use in developing an odor management plan that is inclusive of the facilities being designed. ~~(3-31-22)~~( )

~~j~~l. ~~Cold Weather.~~ Facilities ~~shall~~ must be designed with regard for proper operation and maintenance and protection during cold weather temperatures expected at the specific location. The Water Environment Federation Guidance referenced in Section 008 ~~of these rules~~ provides guidance for use in designing, operating and maintaining facilities in cold weather. ~~(3-31-22)~~( )

04. Plant Details. (3-31-22)

a. Unit Bypasses. (3-31-22)

i. ~~Removal from Service.~~ Properly located and arranged bypass structures and piping ~~shall~~ must be provided so that each unit of the plant can be removed from service independently. The bypass design ~~shall~~ must facilitate plant operation during unit maintenance and emergency repair ~~so as~~ to minimize deterioration of effluent quality and ensure rapid process recovery upon return to normal operational mode. The actuation of all bypasses ~~shall~~ require manual action by operating personnel. All power-actuated bypasses ~~shall~~ must be designed to permit manual operation in the event of power failure. ~~(3-31-22)~~( )

ii. ~~Unit Bypass During Construction.~~ Unit bypassing during construction ~~shall~~ must be in accordance with the ~~preliminary engineering report required by~~ PER described in Section 411. ~~(3-31-22)~~( )

b. ~~Unit dewatering, flotation protection, and plugging.~~ Drains or sumps ~~shall~~ must be provided to completely dewater each unit to an appropriate point in the process. Due consideration ~~shall~~ must be given to the possible need for hydrostatic pressure relief devices to prevent flotation of structures. Pipes subject to plugging ~~shall~~ must be provided with means for mechanical cleaning or flushing. ~~(3-31-22)~~( )

c. ~~Construction materials.~~ Materials ~~shall~~ must be selected that are appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. This is particularly important in the selection of metals and paints. ~~(3-31-22)~~( )

d. ~~Painting.~~ The contents and direction of flow ~~shall~~ must be identified on the piping in a contrasting color. ~~(3-31-22)~~( )

e. ~~Operating equipment.~~ Tools, accessories, and spare parts necessary for the plant operator's use ~~shall~~ must be provided. ~~(3-31-22)~~( )

f. ~~Storage and work space facilities.~~ Readily accessible storage and ~~work space~~ workspace facilities ~~shall~~ must be provided, and consideration ~~shall~~ must be given to provision of a garage for large equipment storage, maintenance, and repair. ~~(3-31-22)~~( )

g. ~~Erosion control during construction.~~ Effective site erosion control ~~shall~~ must be provided during construction. ~~(3-31-22)~~( )

h. ~~Grading and landscaping.~~ Upon completion of the plant, the ground ~~shall~~ must be graded and landscaped in accordance with the ~~preliminary engineering report developed in the preliminary engineering report required by~~ PER described in Section 411. ~~(3-31-22)~~( )

05. Plant Outfalls. (3-31-22)

a. ~~Discharge impact control.~~ The outfall ~~shall~~ must be designed to discharge to the receiving ~~stream~~ water in a manner acceptable to various reviewing authorities including, but not limited to, EPA, the ~~Idaho~~ Department ~~of Environmental Quality~~, U.S. Army Corp of Engineers, Idaho Department of Water Resources, and local jurisdictions. ~~(3-31-22)~~( )

b. ~~Protection and Maintenance.~~ The outfall ~~shall~~ must be so constructed and protected against the effects of floodwater, ice, or other hazards as to reasonably ensure its structural stability and freedom from stoppage. Hazards to navigation ~~shall~~ must be considered in designing outfalls. ~~(3-31-22)~~( )

c. ~~Sampling Provisions.~~ All outfalls ~~shall~~ must be designed so that a sample of the effluent can be obtained at a point after the final treatment process and before discharge to or mixing with the receiving waters. ~~(3-31-22)~~( )

06. Essential Facilities. (3-31-22)

~~**a.** Emergency Power Facilities.~~ ~~(3-31-22)~~

~~i~~**a.** ~~General.~~ All wastewater treatment plants ~~shall~~ must be provided with an alternate source of electric power or pumping capability to allow continuity of operation during power failures. Refer to Subsection 440.07.c. for design requirements. Methods of providing alternate sources include: ~~(3-31-22)~~( )

~~(1)~~i. The connection of at least two (2) independent power sources such as substations. A power line from each substation is required if this method is used. The determination of the independent power sources ~~shall~~ must be done by the appropriate power provider and stated in a letter from that provider. ~~(3-31-22)~~( )

~~(2)~~ii. In-place internal combustion engine equipment which will generate electrical or mechanical energy. (3-31-22)

~~(3)~~iii. Portable pumping equipment when only emergency pumping is required. Where part or all of the engine-driven pumping equipment is portable, adequate emergency storage capacity with alarm system ~~shall~~ must be provided to allow time for detection of pump station failure and transportation and hookup of the portable equipment. ~~(3-31-22)~~( )

iiv. ~~Power for Aeration.~~ Standby power-generating capacity normally is not required for aeration equipment used in the activated sludge process. In cases where a history of chronic, long-term (four (4) hours or more) power outages have occurred, auxiliary power for minimum aeration of the activated sludge ~~will be~~ is required as provided in Subsections 450.06.a.i.~~(1) or~~ and 450.06.a.i.~~(2)~~. ~~(3-31-22)~~( )

iiiv. ~~Power for Disinfection.~~ Standby power-generating capacity, as provided in Subsections 450.06.a.i.~~(1) or~~ and 450.06.a.ii.~~(2)~~, is required for disinfection facilities and dechlorination facilities. ~~(3-31-22)~~( )

~~b. Water Supply. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law.~~ ~~(3-31-22)~~

~~c. Sanitary Facilities. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law.~~ ~~(3-31-22)~~

~~d~~**b.** ~~Stairways.~~ Stairways ~~shall~~ must be installed in lieu of ladders for top access to units requiring routine inspection and maintenance (such as digesters, trickling filters, aeration tanks, clarifiers, tertiary filters, etc.). ~~(3-31-22)~~( )

~~e~~**c.** ~~Flow Measurement.~~ ~~(3-31-22)~~

~~i.~~ ~~Location.~~ Flow measurement devices ~~shall~~ must be provided to measure the ~~following flows:~~ ~~(3-31-22)~~

~~(1)~~ ~~P~~ plant influent or effluent flow. ~~(3-31-22)~~

~~(2)~~ If influent flow is significantly different from effluent flow, both ~~shall~~ must be measured or otherwise accounted for by other flow measurement facilities. ~~(3-31-22)~~( )

~~(3)~~i Other flows ~~required to be monitored under the~~ measurement must be provided if required by provisions of the discharge permit or as required for plant operational control such as return activated sludge, waste activated sludge, and recycled flow. ~~(3-31-22)~~( )

~~(4) Other flows such as return activated sludge, waste activated sludge, and recycle required for plant operational control.~~ ~~(3-31-22)~~

ii. ~~Devices.~~ Indicating, totalizing, and recording flow measurement devices for all influent or effluent flows ~~shall~~ must be provided for all plants. Any other flow measurement device may be indicating and totalizing only. All flow measurement equipment must be sized to function to a satisfactory level of accuracy over the full range of flows expected and ~~shall~~ must be protected against freezing. ~~(3-31-22)~~( )

iii. ~~Hydraulic Conditions.~~ Flow measurement equipment including approach and discharge conduit configuration and critical control elevations ~~shall~~ must be designed to ensure the required hydraulic conditions necessary for the measurement accuracy needed for the specific application. ~~(3-31-22)~~( )

iv. ~~Calibration and Certification.~~ The flow measurement devices ~~specified in Subsections 450.06.e.i.(1) through 450.06.e.i.(3) shall~~ must be calibrated and certified at manufacturer-specified frequencies. ~~(3-31-22)~~( )

~~f~~**d.** ~~Sampling Equipment.~~ Effluent composite sampling equipment ~~shall~~ must be provided at all mechanical plants and at other facilities where necessary to meet discharge permit monitoring requirements. Composite sampling equipment ~~shall~~ must also be provided as needed for influent sampling and for monitoring plant operations. The influent sampling point ~~shall~~ must be located prior to any process return flows. ~~(3-31-22)~~( )

07. Safety. (3-31-22)

a. ~~General.~~ Provisions ~~shall~~ must be made to consider the protection of maintenance personnel and

visitors from typical and foreseeable hazards in accordance with the engineering standards of care. Enclosure of the plant site with a fence and signs designed to discourage the entrance of unauthorized persons and animals is required. ~~(3-31-22)~~( )

b. ~~Hazardous Chemical Handling.~~ The materials utilized for storage, piping, valves, pumping, metering, splash guards, etc., ~~shall~~ must be specially selected considering the physical and chemical characteristics of each hazardous or corrosive chemical. ~~(3-31-22)~~( )

08. Laboratory. (3-31-22)

a. All treatment plants ~~shall~~ must include a laboratory for making the necessary analytical determinations and operating control tests, except for those plants utilizing only processes not requiring laboratory testing for plant control and where satisfactory off-site laboratory provisions are made to meet the permit monitoring requirements. The laboratory ~~shall~~ must have sufficient size, bench space, equipment, and supplies to perform all self-monitoring analytical work required by ~~discharge~~ disposal permits, and to perform the process control tests necessary for good management of each treatment process included in the design. ~~(3-31-22)~~( )

b. Expected minimum laboratory needs must be addressed in the PER pursuant to Section 411. Treatment plant laboratory needs ~~may be~~ are divided into the following three (3) general categories: ~~(3-31-22)~~( )

i. Plants performing only basic operational testing; this typically includes pH, temperature, dissolved oxygen, and chlorine residual. (3-31-22)

ii. Plants performing more complex operational and permit laboratory tests including biochemical oxygen demand, suspended solids, and fecal coliform analysis. (3-31-22)

iii. Plants performing more complex operational, permit, industrial pretreatment, and multiple plant laboratory testing. (3-31-22)

~~**c.** Expected minimum laboratory needs for the three (3) plant classifications set out in Subsection 450.08.b. must be addressed in the preliminary engineering report.~~ ~~(3-31-22)~~

~~**09. Instructions and Equipment**. Wastewater treatment equipment shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools and such spare parts as may be necessary.~~ ~~(3-31-22)~~

~~10~~09. **Operation and Maintenance**. An operation and maintenance manual ~~shall~~ must be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual ~~shall be~~ is required. The owner ~~shall be~~ is responsible for maintaining the wastewater treatment facility in a manner that ~~assures~~ ensures its designed operation. ~~(3-31-22)~~( )

451. -- 454. (RESERVED)

455. PRIVATE ~~MUNICIPAL~~ WASTEWATER TREATMENT PLANTS.

01. Scope. Section 455 includes ~~additional~~ requirements in addition to Section 450 requirements for approval of private ~~municipal~~ wastewater treatment plants. Individual extended treatment package systems for on-site systems are ~~not covered by these rules, but are covered~~ regulated by IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks." ~~See Technical Guidance Manual for Individual and Subsurface Sewage Disposal Systems at http://www.deq.idaho.gov/. Private municipal wastewater treatment plants may be considered if no other viable alternative is available.~~ ~~(3-31-22)~~( )

a. If the Department determines that a proposed private wastewater treatment plant is reasonably accessible to a wastewater system, the use of the private wastewater treatment plant may be denied. ( )

b. A compliance agreement schedule authorized by Section 39-116A, Idaho Code, is required for each private wastewater treatment plant approved unless specifically waived by the Department in writing. If a private

wastewater treatment plant installation is only a temporary or interim measure in a long-term plan, a compliance agreement schedule will include a sunset clause with a date for the private wastewater treatment plant to cease operation and will require the plant owner to fund and construct the eventual hookup to the municipal wastewater collection system when the system becomes reasonably accessible. The compliance agreement schedule will address such things as operation and maintenance requirements and monitoring, reporting requirements, and other project-specific items as applicable. The owner is responsible for complying with the requirements of the compliance agreement schedule. The compliance agreement schedule will be renewed every five (5) years; when ownership of the treatment plant changes; or at the request of the owners or Department, so long as the system is in operation. ( )

c. Private wastewater treatment plants must be designed to provide service within the contiguous area including all adjacent and connected parcels or subdivisions that are part of the same overall planned development footprint and provide service to future phases of the planned development. The design capacity must account for buildout conditions or provide for means to readily expand capacity to accommodate future growth. Anticipated phases of development and future growth must be accounted for within the facility plan and PER. ( )

d. The minimum size of a private wastewater treatment plant allowed under these rules is twenty-five thousand (25,000) gallons per day design capacity based on average day flows. ( )

i. The minimum size requirements do not apply to proposed systems with suitably configured passive wastewater treatment technologies including, but not limited to, facultative lagoons, free water surface wetlands, and vegetated submerged beds. ( )

ii. The Department may approve private wastewater treatment plants smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, provided the treatment plant will be maintained under original ownership. ( )

e. Prior to transfer of ownership of a private wastewater treatment plant to another entity, the proposed new owner must submit adequate documentation demonstrating sufficient technical, financial, and managerial capacity, as described in Section 409. ( )

02. ~~Preliminary Engineering Report~~Facility Plan and PER. ~~A preliminary engineering report as described in Section 411 must be submitted to the Department for review and must be approved by the Department prior to submittal of plans and specifications.~~ The ~~preliminary engineering report~~ facility plan and PER for private ~~municipal~~ wastewater treatment plants ~~shall~~ must include project-specific estimated permit effluent limits and requirements based on discussion with the applicable permitting agency, the information listed in ~~Subsections 455.02.a. and 455.02.b., as well as~~ this subsection, and information specified in Sections 410 and 411. ~~(3-31-22)~~( )

~~**a.** The preliminary engineering report shall evaluate the following alternatives: (3-31-22)~~

~~i. Wastewater treatment plants (possibly several technologies). (3-31-22)~~

~~ii. Self-contained lagoon. (3-31-22)~~

~~iii. Conventional septic tank and drainfield (or alternate drainfield design). (3-31-22)~~

~~iv. Surface water discharge including impact on TMDLs. (3-31-22)~~

~~v. Gravity or pressure sewer into nearby community (see Subsection 455.04.e. for distances to community systems and required hook-up.) (3-31-22)~~

~~vi. Recirculating or intermittent sand filter. (3-31-22)~~

~~vii. Annual operation and maintenance costs. (3-31-22)~~

~~viii. Land application/reuse. (3-31-22)~~

~~**b.** The preliminary engineering report must thoroughly analyze the effect of the treatment plant discharge on ground water quality, especially bacteria, viruses, phosphorus and nitrates as compared to the alternatives listed in Subsection 455.02.a.~~ ~~(3-31-22)~~

a. The private wastewater treatment plant will have at least two (2) full years of operating data on five (5) separate installations in the United States. The data submittal will include the name, address, and telephone number for a regulatory agency contact person or an owner or operator familiar with the performance of each reported installation. ( )

b. The private wastewater treatment plant will be a dual train type (or equivalent/greater) with redundant pumps and blowers from influent works to the disposal site and provide sufficient redundancy to continue processing incoming wastewater at peak flows while any one (1) component or process is out of service. Standby or emergency power will be provided to fully operate the wastewater treatment plant during a power outage unless the water system would also be out during a power outage. ( )

03. Plan and Specification Approval. (3-31-22)

a. Plans and specifications for the ~~collection and treatment systems~~ private wastewater treatment plants will not be approved until the owner is in receipt of one of the following (whichever is applicable): ~~(3-31-22)~~( )

i. A draft ~~NPDES~~ discharge permit ~~from EPA~~ for proposed surface water discharges; ~~or~~ ~~(3-31-22)~~( )

ii. A draft ~~wastewater land application/~~ reuse permit from the Department ~~for proposed land application or reuse of the effluent. See the Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater at http://www.deq.idaho.gov~~ in accordance with IDAPA 58.01.17, "Recycled Water Rules"; ~~(3-31-22)~~( )

iii. Water balance calculations showing a net water loss for total containment lagoons included in approved PER; or ( )

iv. A subsurface installation permit application submitted to the local public health district and a completed site evaluation or nutrient pathogen evaluation in accordance with Section 260. ( )

~~**b.** For a subsurface treatment and dispersal system (SSDS):~~ ~~(3-31-22)~~

~~i. The plans and specifications for the dispersal system must receive approval from the Department prior to receipt of the SSDS permit from the district health department having jurisdiction; and~~ ~~(3-31-22)~~

~~ii. The plans and specifications for the collection system will not be approved by the Department until the owner is in receipt of the SSDS permit from the district health department having jurisdiction.~~ ~~(3-31-22)~~

~~**c.** For private municipal wastewater treatment plants storing their treated effluent prior to irrigation or surface water discharge, the following additional items shall be considered by the Department, prior to approving either the treatment systems or the disposal option. These include, but are not limited to, sealing of storage ponds, filtration and disinfection requirements prior to use or discharge, the degree of treatment, and the intended type and area of irrigation. See IDAPA 58.01.17, "Recycled Water Rules."~~ ~~(3-31-22)~~

~~**04. Private Municipal Wastewater Treatment Plants**.~~ ~~(3-31-22)~~

~~**a.** The private municipal wastewater treatment plant shall have at least two (2) full years of operating data on five (5) separate installations in the United States. The data submittal shall include the name, address, and telephone number for a regulatory agency contact person familiar with the performance of each reported installation.~~ ~~(3-31-22)~~

~~**b.** The owner shall provide for a wastewater system operator in responsible charge of the facility. The operator license classification requirement will depend on the classification of the system based on Section 202 and the licensure requirements of Section 203. If the operator is provided by contract, the contract shall be submitted to the Department for review and approval. (3-31-22)~~

~~**e**~~**b.** ~~A sludge management plan must be submitted to and approved by the Department. The plan must include collection, treatment and disposal of the sludge. Additionally, a~~A signed contract or other documentation acceptable to the Department that provides for ultimate legal disposal or use of the sludge ~~shall~~ must be submitted to the Department prior to plan and specification approval. ~~(3-31-22)~~( )

~~**d.** The private municipal wastewater treatment plant shall be a dual train type (or equivalent/greater) with redundant pumps and blowers from influent works to the disposal site and provide sufficient redundancy to continue processing incoming wastewater at peak flows while any one (1) component or process is out of service. Standby or emergency power shall be provided to fully operate the wastewater treatment plant during a power outage unless the water system would also be out during a power outage. (3-31-22)~~

~~**e.** A compliance agreement schedule authorized by Section 39-116A, Idaho Code, shall be required for each private municipal wastewater treatment plant approved unless specifically waived by the Department in writing. If a private municipal wastewater treatment plant installation is only a temporary or interim measure in a long term plan, a compliance agreement schedule will include a sunset clause with a date for the private municipal wastewater treatment plant to cease operation and will require the plant owner to fund and construct the eventual hookup to the public municipal wastewater collection system when the system becomes reasonably accessible. The compliance agreement schedule shall address such things as operation and maintenance requirements and monitoring, reporting requirements, and other project-specific items as applicable. The owner shall be responsible for complying with the requirements of the compliance agreement schedule. The compliance agreement schedule must be renewed every five (5) years; when ownership of the treatment plant changes; or at the request of the owner(s) or Department, so long as the system is in operation. (3-31-22)~~

~~**f.** If the Department determines that a proposed private municipal wastewater treatment plant is reasonably accessible to a public municipal wastewater collection system, the use of the private municipal wastewater treatment plant may be denied. (3-31-22)~~

~~**g.** Minimum Size. The minimum size of a private municipal wastewater treatment plant allowed under these rules is twenty-five thousand (25,000) gallons per day design capacity based on average day flows. (3-31-22)~~

~~i. The minimum size requirements do not apply to proposed systems with suitably configured passive wastewater treatment technologies including, but not limited to, facultative lagoons, free water surface wetlands, and vegetated submerged beds. (3-31-22)~~

~~ii. The Department may approve private municipal wastewater treatment plants smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, provided the treatment plant will be maintained under original ownership. (3-31-22)~~

~~iii. For the Department to approve the transfer of ownership of a private municipal wastewater treatment plant smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, to another entity, the technical, financial, and managerial requirements in Section 409 must be demonstrated by the proposed new owner. (3-31-22)~~

~~**05. Private Municipal Wastewater Treatment Plants with Drainfields**. In addition to the applicable requirements of these rules, the subsurface sewage disposal design, construction and operation shall comply with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." The exception to this is for Class A reclaimed wastewater reuse facilities that discharge to the subsurface. These reuse facilities are regulated by IDAPA 58.01.17, "Recycled Water Rules." (3-31-22)~~

456. -- 459. (RESERVED)

460. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: SCREENING AND GRIT REMOVAL.

01. Screening Devices and Comminutors. (3-31-22)

a. Screening, coarse or fine, or comminutors ~~shall be~~ are required for all mechanical plants and ~~shall~~ will be addressed for other types of plants. These facilities ~~shall~~ must be designed for peak hourly flow. Multiple channels ~~shall~~ must be provided and equipped with the necessary gates to isolate flow from any screening unit. Provisions ~~shall~~ must also be made to facilitate dewatering each unit. The channel preceding and following the screen ~~shall~~ must be shaped to minimize settling of solids. ~~(3-31-22)~~( )

b. For mechanical plants with design ~~average~~ flow less than one million gallons per day (1 mgd), and where a single mechanically cleaned screen is used, an auxiliary manually cleaned screen ~~shall~~ must be provided. Where two (2) or more mechanically cleaned screens are used, the design ~~shall~~ must provide for taking any unit out of service without sacrificing the capability to screen the design peak instantaneous flows. ~~(3-31-22)~~( )

02. Grit Removal Facilities. Grit removal and handling facilities ~~shall~~ must be provided for all mechanical wastewater treatment plants. Consideration ~~shall~~ must be given to possible damaging effects on pumps, comminutors, and other preceding equipment, and the need for additional storage capacity in treatment units where grit is likely to accumulate. ~~(3-31-22)~~( )

461. -- 469. (RESERVED)

470. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: SETTLING.

~~**01. General.**~~ ~~(3-31-22)~~

~~**a**~~**01. Settling Units.** ~~Where settling is being used, a~~ A minimum of two (2) settling units capable of independent operation ~~are desirable and shall~~ must be provided in all plants where design ~~average~~ flow~~s~~ exceeds one hundred thousand (100,000) gallons/day. Plants not having multiple units ~~shall~~ must include other provisions to assure continuity of treatment. ~~(3-31-22)~~( )

~~**b**~~**02. Sizing.** ~~The design of settling facilities shall include a minimum of two (2) units with flow splitting.~~ Sizing ~~shall~~ must be calculated for both ~~design~~ average day flow and ~~design~~ peak hour~~ly~~ flow conditions, and the larger surface area determined ~~shall~~ must be used. ~~(3-31-22)~~( )

~~**c**~~**03. Isolation.** The plant design ~~shall~~ must allow for isolation of each unit. ~~The plant design shall~~ and allow for sludge and scum removal. ~~(3-31-22)~~( )

~~**d**~~**04. Baffling.** Baffling ~~shall~~ must be designed to control solids carry-over. ~~(3-31-22)~~( )

~~**e**~~**05. Minimum Side Depth.** The minimum side depth for primary settling facilities ~~shall~~ must be ten (10) feet. ~~(3-31-22)~~

~~**f.**~~ The minimum side depth for secondary settling facilities ~~shall~~ must be twelve (12) feet. ~~(3-31-22)~~( )

471. -- 479. (RESERVED)

480. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: SLUDGE PROCESSING, STORAGE, AND DISPOSAL.

01. Facilities. Facilities for processing sludge ~~shall~~ must be provided for all mechanical wastewater treatment plants. Facilities ~~shall~~ must be capable of processing sludge to a form suitable for ultimate disposal. Final disposal or utilization ~~shall~~ must be in accordance with applicable ~~permit and~~ federal and state regulations. ~~(3-31-22)~~( )

02. Design. Sludge processing, storage and disposal facility design ~~shall~~ must comply with the ~~sludge management plan in the Preliminary Engineering Report~~ PER. ~~(3-31-22)~~( )

03. Multiple Units. Multiple units capable of independent operation ~~are desirable and shall~~ must be provided in ~~all~~ plants where design average flows exceed one hundred thousand (100,000) gallons/day. Plants not having multiple units ~~shall~~ must include other provisions to assure continuity of treatment. The plant design ~~shall~~ must allow for isolation of each unit. ~~(3-31-22)~~( )

481. -- 489. (RESERVED)

490. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: BIOLOGICAL TREATMENT.
If biological treatment is used, the process ~~shall~~ must be determined in the ~~preliminary engineering report~~ PER. The choice ~~shall~~ must be based on influent characteristics and effluent requirements. ~~(3-31-22)~~( )

01. Trickling Filters. (3-31-22)

a. ~~General.~~ Trickling filters ~~shall~~ must be preceded by effective settling tanks equipped with scum and grease collecting devices or other suitable pretreatment facilities. ~~(3-31-22)~~( )

b. ~~Hydraulics.~~ The flow ~~will~~ must be uniformly distributed across the surface of the media. The piping system, including dosing equipment and distributor, ~~shall~~ must be designed to provide capacity for the design peak hour flow, including recirculation. ~~(3-31-22)~~( )

c. Media. (3-31-22)

i. ~~Quality. The~~ Trickling filter media ~~shall~~ must be appropriate for the wastewater and ~~shall be~~ of sufficient strength to support itself under design loading and build up of biomass. ~~(3-31-22)~~( )

ii. ~~Depth. Trickling filter~~ The media ~~shall~~ must have a minimum depth of six (6) feet above the underdrains. ~~(3-31-22)~~( )

d. Underdrainage System. (3-31-22)

i. ~~Arrangement.~~ Underdrains ~~shall~~ must be provided and the underdrainage system ~~shall~~ must cover the entire floor of the filter. Inlet openings into the underdrains ~~shall~~ must have an unsubmerged gross combined area equal to at least fifteen (15) percent of the surface area of the filter. ~~(3-31-22)~~( )

ii. ~~Ventilation.~~ The underdrainage system, effluent channels, and effluent pipe ~~shall~~ must be designed to permit free passage of air. ~~(3-31-22)~~( )

e. Special Features. (3-31-22)

i. ~~Maintenance.~~ All distribution devices, underdrains, channels, and pipes ~~shall~~ must be installed so that they may be properly maintained, flushed or drained. ~~(3-31-22)~~( )

ii. ~~Winter Protection.~~ Covers ~~shall~~ must be provided to maintain operation and treatment efficiencies when climatic conditions are expected to result in problems due to cold temperatures. ~~(3-31-22)~~( )

iii. ~~Recirculation.~~ The piping system ~~shall~~ must be designed for recirculation as ~~required~~ needed to achieve the design efficiency. The recirculation rate ~~shall~~ must be variable and subject to plant operator control at the range of 0.5:1 up to 4:1 (ratio of recirculation rate versus design ~~average~~ flow). A minimum of two (2) recirculation pumps ~~shall~~ must be provided. ~~(3-31-22)~~( )

f. ~~Rotary Distributor Seals.~~ Mercury rotary distributor seals ~~shall~~ are not ~~be~~ permitted. ~~(3-31-22)~~( )

g. ~~Unit Sizing. Required v~~Volumes of filter media ~~shall~~ must be based upon pilot testing with the particular wastewater or any of the various empirical design equations that have been verified through actual full scale experience. Such calculations must be submitted to the Department if pilot testing is not utilized. Trickling filter sizing design ~~shall~~ must consider peak organic load conditions including the oxygen demands due to solids and process recycle flows. ~~(3-31-22)~~( )

02. Activated Sludge. (3-31-22)

a. Aeration. (3-31-22)

i. ~~Capacities and Permissible Loadings.~~ The size of the aeration tank for any particular adaptation of the process ~~shall~~ must be determined by full scale experience, pilot plant studies, or ~~rational~~ standard calculations based ~~mainly~~ on solids retention time, food to microorganism ratio, and mixed liquor suspended solids levels. Other factors, such as size of treatment plant, diurnal load variations, and degree of treatment required, ~~shall~~ must also be considered. In addition, temperature, alkalinity, pH, and reactor dissolved oxygen ~~shall~~ must be considered when designing for nitrification. Calculations ~~shall~~ must be submitted to the Department in the ~~preliminary engineering report~~ PER to justify the basis for design of aeration tank capacity. ~~(3-31-22)~~( )

ii. Arrangement of Aeration Tanks. (3-31-22)

(1) ~~Dimensions.~~ The dimensions of each aeration tank or return sludge reaeration tank ~~shall~~ must be ~~such as~~ able to maintain effective mixing and utilization of air. ~~An exception is that h~~ Horizontally mixed aeration tanks ~~shall~~ must have a depth of ~~not less~~ greater than five point five (5.5) feet. ~~(3-31-22)~~( )

(2) ~~Number of Units.~~ Total aeration tank volume plus redundancy requirements ~~shall~~ must be divided among two (2) or more equal units, capable of independent operation. ~~(3-31-22)~~( )

(3) Inlets and Outlets. (3-31-22)

(a) ~~Controls.~~ Inlets and outlets for each aeration tank unit ~~shall~~ must be designed to control flow to any unit with reasonable accuracy and to maintain reasonably constant liquid level. The properties of the system ~~shall~~ must permit the design peak day flow to be treated with any single aeration tank unit out of service. The properties of the system ~~shall~~ must permit the design peak hour hydraulic flow to be carried with any single aeration tank unit out of service. ~~(3-31-22)~~( )

(b) ~~Conduits.~~ Channels and pipes carrying liquids with solids in suspension ~~shall~~ must be designed to be self-cleansing. ~~(3-31-22)~~( )

(c) ~~Scum and Foam Control.~~ Aeration tanks ~~shall~~ must be designed to include adequate control or removal of scum and foam. ~~(3-31-22)~~( )

(4) ~~Freeboard.~~ All aeration tanks ~~should~~ must have a freeboard of not less than eighteen (18) inches unless otherwise approved by the Department. ~~(3-31-22)~~( )

iii. Aeration Equipment. (3-31-22)

(1) ~~General.~~ Oxygen requirements ~~generally depend~~ are based on maximum diurnal organic loading, degree of treatment, and level of suspended solids concentration to be maintained in the aeration tank mixed liquor. Aeration equipment ~~shall~~ must be capable of maintaining a minimum of two point zero (2.0) mg/L of dissolved oxygen in the mixed liquor at all times and provide thorough mixing of the mixed liquor. ~~(~~For a horizontally mixed aeration tank system, an average velocity of one (1) foot per second must be maintained~~)~~. In the absence of experimentally determined values, the design oxygen requirements for all activated sludge processes ~~shall~~ must be 1.1 lb 0_2 per lb of design peak hour BOD_5 applied to the aeration tanks, ~~with the~~ exception ~~of~~ the extended aeration process, for which the value ~~shall~~ must be one point five (1.5) to include endogenous respiration requirements. ~~(3-31-22)~~( )

(a) Where nitrification is required or will occur, the oxygen requirement for oxidizing ammonia must be added to the above requirement for carbonaceous BOD_5 removal and endogenous respiration requirements. The nitrogenous oxygen demand (NOD) ~~shall be taken as~~ must be four point six (4.6) times the diurnal peak hour total Kjeldahl nitrogen content of the aeration tank influent. In addition, the oxygen demands due to recycle flows must be considered due to the high concentrations of BOD_5 and total Kjeldahl nitrogen associated with such flows. ~~(3-31-22)~~( )

(b) Aeration equipment design must ~~M~~meet maximum oxygen demand, ~~and~~ maintain process performance with the largest unit out of service~~.~~, and ~~P~~provide for varying the amount of oxygen transferred in proportion to the load demand on the plant. ~~(3-31-22)~~( )

(2) ~~Diffused Air Systems.~~ Air requirements including, but not limited to, process air, channel aeration, aerobic digestion, and miscellaneous plant air ~~shall~~ must be submitted to the Department in the ~~preliminary engineering report~~ PER. Blowers ~~shall~~ must be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand with the single largest unit out of service. The design ~~shall~~ must also provide for varying the volume of air delivered in proportion to the load demand of the plant. Aeration equipment ~~shall~~ must be easily adjustable in increments and ~~shall~~ maintain solids suspension within these limits. ~~(3-31-22)~~( )

(3) Mechanical Aeration Systems. (3-31-22)

(a) ~~Oxygen Transfer Performance.~~ The mechanism and drive unit ~~shall~~ must be designed for the expected conditions in the aeration tank in terms of the power performance. Certified testing ~~shall~~ must be provided to verify mechanical aerator performance. Refer to applicable provisions of Subsection 490.02. In the absence of specific design information, the oxygen requirements ~~shall~~ must be calculated for mechanical aeration systems using a transfer rate not to exceed two (2) pounds of oxygen per horsepower per hour in clean water under standard test conditions. Design transfer efficiencies ~~shall~~ must be included in the specifications. ~~(3-31-22)~~( )

(b) ~~Design Requirements.~~ Motors, gear housing, bearings, grease fittings, ~~etc.,~~ and other mechanical units, ~~shall~~ must be easily accessible and protected from inundation and spray as necessary for proper functioning of the unit. ~~(3-31-22)~~( )

(c) ~~Winter Protection.~~ Where extended cold weather conditions occur, the aerator mechanism and associated structure ~~shall~~ must be protected from freezing due to splashing. Due to high heat loss, subsequent treatment units ~~shall~~ must be protected from freezing. ~~(3-31-22)~~( )

b. ~~Non-Aerated Tanks or Zones.~~ Non-aerated tanks or zones within aeration tanks ~~shall~~ must have mixing equipment adequate to fully mix the contents. ~~Provide c~~ Calculations must be provided in the ~~preliminary engineering report~~ PER for sizing ~~of~~ this equipment. ~~(3-31-22)~~( )

c. Return Sludge Equipment. (3-31-22)

i. ~~Return Sludge Rate~~The rate of sludge return must be varied by adjustable weirs or variable speed pumps to pump sludge. For very small wastewater systems, timers may be used for sludge return. The return sludge rate of withdrawal from the final settling tank is a function of the concentration of suspended solids in the mixed liquor entering it, the sludge volume index of these solids, and the length of time these solids are retained in the settling tank. ~~The rate of sludge return shall be varied by means of adjustable weirs, variable speed pumps, or timers (small plants) to pump sludge.~~ ~~(3-31-22)~~( )

ii. ~~Return Sludge Pumps.~~ If a consolidated return sludge pump facility is used, the maximum return sludge capacity ~~shall~~ must be obtained with the largest pump out of service. If individual sludge pumps are used at each settling basin, the pumps ~~shall~~ must be designed to facilitate their rapid removal and replacement with a standby unit stored at the treatment plant site. If air lifts are used for returning sludge from each settling tank hopper, no standby unit ~~will be~~ is required provided the design of the air lifts facilitate their rapid and easy cleaning and provided other suitable standby measures are made available. Air lifts ~~should~~ must be at least three (3) inches in diameter unless otherwise approved by the Department. ~~(3-31-22)~~( )

iii. ~~Return Sludge Piping.~~ Discharge piping ~~should~~ must be at least four (4) inches in diameter and

~~shall~~ must be designed to maintain a velocity of not less than two (2) feet per second when return sludge facilities are operating at normal return sludge rates. Suitable devices for observing, sampling, and controlling return activated sludge flow from each settling tank hopper ~~shall~~ must be provided. ~~(3-31-22)~~( )

iv. ~~Waste Sludge Facilities.~~ Means for observing, measuring, sampling, and controlling waste activated sludge flow ~~shall~~ must be provided. ~~(3-31-22)~~( )

d. Sequencing Batch Reactors. ( )

i. The fill and draw mode of the activated sludge process commonly termed the Sequencing Batch Reactor may be used in Idaho. The design must be based on experience at other facilities and ~~shall~~ meet the applicable ~~requirements~~ provisions under Sections 450, 470 and 490, except as modified in Subsections 490.02.d.ii. through 490.02.d.xii. Continuity and reliability of treatment equal to that of the continuous flow through modes of the activated sludge process ~~shall~~ must be provided. ~~(3-31-22)~~( )

ii. At least two (2) tanks ~~shall~~ must be provided. ~~(3-31-22)~~( )

iii. The decantable volume and ~~decanter~~ capacity of the sequencing batch reactor system with the largest basin out of service ~~shall~~ must be sized to pass at least seventy-five (75) percent of the design maximum day flow without changing cycle times. A decantable volume of at least four (4) hours with the largest basin out of service based on one hundred (100) percent of the design maximum day flow is permissible. ~~(3-31-22)~~( )

~~iii~~iv. System reliability with any single tank unit out of service and the instantaneous delivery of flow ~~shall~~ must be evaluated in the design of decanter weirs and approach velocities. ~~(3-31-22)~~( )

~~i~~v. Reactor design ~~shall~~ must provide for scum removal and prevent overflow of settled solids. ~~(3-31-22)~~( )

vi. An adequate zone of separation between the sludge blanket and the decanter~~(s) shall~~ must be maintained throughout the decant phase. Decanters which draw the treated effluent from near the water surface throughout the decant phase are recommended. ~~(3-31-22)~~( )

vii. Solids management to accommodate basin dewatering ~~shall~~ must be considered. ~~(3-31-22)~~( )

viii. The blowers ~~shall~~ must be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand in the oxic portions of the fill/react and react phases of the cycle with the single largest unit out of service. ~~See Subsection 490.02.~~ ~~(3-31-22)~~( )

~~vii~~ix. Mechanical mixing independent of aeration ~~shall~~ must be provided for all systems where biological phosphorus removal or denitrification is required. ~~(3-31-22)~~( )

~~i~~x. ~~Flow paced composite sampling equipment and continuous turbidity metering for separately monitoring the effluent quality from each basin may be required by the regulatory agency.~~ All twenty-four (24) hour effluent quality composite samples for compliance reporting or monitoring plant operations ~~shall~~ must be flow-paced and include samples collected at the beginning and end of each decant phase. ~~(3-31-22)~~( )

xi. A programmable logic controller (PLC) ~~shall~~ must be provided. Multiple PLCs ~~shall~~ must be provided as necessary to assure rapid process recovery or minimize the deterioration of effluent quality from the failure of a single controller. An uninterruptible power supply with electrical surge protection ~~shall~~ must be provided for each PLC to retain program memory (i.e., process control program, last-known set points and measured process/equipment status, etc.) through a power loss. A hard-wired backup for manual override ~~shall~~ must be provided in addition to automatic process control. Both automatic and manual controls ~~shall~~ must allow independent operation of each tank. In addition, a fail-safe control allowing at least twenty (20) minutes of settling between the react and decant phases ~~shall~~ must be provided. The fail-safe control ~~shall~~ must not be adjusted by the operator. ~~(3-31-22)~~( )

xii. A sufficient quantity of spare parts ~~shall~~ must be on hand. ~~Consideration shall be~~ and consideration

given to parts with a low mean time between failure such as electrical relays and solid state electronics. ~~(3-31-22)~~( )

03. Other Biological Systems. (3-31-22)

a. ~~General.~~ Biological treatment processes not included in these rules ~~shall~~ must be ~~considered~~ in accordance with Subsection 450.03. ~~(3-31-22)~~( )

b. ~~Membrane Bioreactors.~~ Details for Membrane Bioreactor (MBR) plants ~~shall~~ must be submitted and approved in the ~~preliminary engineering report~~ PER. In addition to the ~~requirements~~ provisions of Section 411, details ~~shall~~ must include plant layout, calculations for hydraulic capacity and air required, membrane technology considered and membrane type and model selected, results from similar type MBR plants already in operation, and anticipated sludge production. ~~(3-31-22)~~( )

491. -- 492. (RESERVED)

493. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: WASTEWATER LAGOONS.

01. General. (3-31-22)

a. These rules pertain to all new, and existing material modified, municipal wastewater lagoons, including discharging or ~~non-discharging~~ total containment lagoons, municipal wastewater treatment lagoons, municipal wastewater or recycled water storage lagoons, and any other municipal wastewater lagoons not regulated under IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks," that~~, if leaking,~~ have the potential to degrade waters ~~of the state~~. Lagoons are also sometimes referred to as ponds. Section 493 does not apply to industrial lagoons or mining tailings ponds, single-family dwellings utilizing a single lagoon, two (2) cell infiltrative system, those animal waste lagoons excluded from review under Section 39-118, Idaho Code, or storm water ponds. ~~(3-31-22)~~( )

b. Lagoons utilized for equalization, ~~percolation, evaporation,~~ and sludge storage do not have to meet the requirements ~~set forth in~~ of Subsections 493.0~~5~~6 through 493.~~10~~08, but must comply with all other applicable subsections. ~~(3-31-22)~~( )

02. Seepage Testing ~~Requirements~~. ~~(3-31-22)~~( )

a. ~~Existing Lagoons. All existing lagoons covered under these rules shall be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision by April 15, 2012 unless otherwise specified in a current permit issued by the Director~~All lagoons covered under this section must be seepage tested at an interval of at least every ten (10) years by or under the supervision of an Idaho licensed professional engineer or an Idaho licensed professional geologist. ~~(3-31-22)~~( )

b. ~~New Lagoons.~~ As part of the construction process, all new lagoons must be seepage tested by or under the supervision of an Idaho licensed professional engineer~~,~~ or an Idaho licensed professional geologist~~, or by individuals under their supervision prior to being put into service~~. ~~(3-31-22)~~( )

~~**c.** Subsequent Tests. All lagoons covered under these rules must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision every ten (10) years after the initial testing.~~ ~~(3-31-22)~~

~~**d**~~**c.** ~~Testing Due to Change of Conditions to Liner. Prior to being returned to service, l~~Lagoons must be seepage tested if a change of condition to the liner occurs that may affect its permeability, including but not limited to liner repair below the high water line, liner replacement, lagoon dewatering of soil-lined lagoons which results in desiccation of the soil liner, seal installation, or earthwork affecting liner integrity. ~~A seepage test may be required after solids removal.~~ Prior to performing activities that may affect liner permeability, such as solids removal, the system owner must contact the Department in writing to determine if a seepage test will be required prior to returning the lagoon to service. ~~(3-31-22)~~( )

~~e~~d. ~~Procedures for Performing a Seepage Test.~~ The procedure for performing a seepage test or alternative analysis must be approved by the Department prior to conducting the test, and the test results must be submitted to the Department for review. ~~If an existing lagoon has passed a seepage test before April 15, 2012 and submitted the results to the Department, the owner of that lagoon has ten (10) years from the date of the testing to comply with this requirement.~~ ~~(3-31-22)~~( )

03. Allowable Seepage Rates. (3-31-22)

a. ~~Design Standard. Lagoons shall be designed for a maximum leakage rate of five hundred (500) gallons per acre per day~~Lagoons must be designed and sealed such that seepage loss through the seal is as low as possible. Seals consisting of soils, bentonite, or synthetic liners may be considered, provided the permeability, durability, and integrity of the proposed material can be satisfactorily demonstrated for anticipated conditions. ~~(3-31-22)~~( )

b. ~~Operating Standard.~~ The ~~leakage~~ seepage rate for lagoons constructed after April 15, 2007, ~~shall~~ must be no more than zero point one hundred twenty-five (0.125) inches (1/8 inch) per day~~, which is approximately thirty-four hundred (3400) gallons per acre per day~~. The leakage rate for existing lagoons constructed prior to April 15, 2007, ~~shall~~ must be no more than zero point twenty-five (0.25) inches (1/4 inch) per day. ~~(3-31-22)~~( )

c. For lagoons located over sensitive aquifers or ~~near~~ with a documented direct hydraulic connection to a 303d listed stream segment~~s~~, the ~~leakage~~ seepage rate ~~shall~~ may be no more than zero point one hundred twenty-five (0.125) inches (one-eighth (1/8) inch) per day~~, which is approximately thirty four hundred (3400) gallons per acre per day. The operating standard may be considerably lower based on a ground water investigation considering fate and transport of contaminants to determine the effect of the seepage on the aquifer or stream segment and the best capability of measurement at the time of the investigation~~. ~~(3-31-22)~~( )

04. ~~Requirements for~~ Lagoons Leaking Above the Allowable Amount. If a lagoon is found to be leaking at a rate higher than ~~that~~ allowed ~~under Subsection 493.03.b.~~, the owner of the lagoon, in accordance with a schedule negotiated with and approved by the Director, is required to: ~~(3-31-22)~~( )

a. Repair the leak and retest for compliance; (3-31-22)

b. Re-line the lagoon and retest for compliance with a leakage rate of no more than zero point one hundred twenty-five (0.125) inches (1/8 inch) per day regardless of the original lagoon construction date; ~~(3-31-22)~~( )

c. Drain the lagoon in an approved manner and stop using the lagoon; or (3-31-22)

d. Determine the impact of the leaking lagoon on the environment based on ~~ground water~~ groundwater sampling and modeling. The procedure for performing ~~ground water~~ groundwater sampling and monitoring must be approved by the Department. Any impact must comply with IDAPA 58.01.11, "~~Ground Water~~Groundwater Quality Rule," and IDAPA 58.01.02, "Water Quality Standards." If the impact does not comply with IDAPA 58.01.11, ~~"Ground Water Quality Rule,"~~ and IDAPA 58.01.02, ~~"Water Quality Standards,"~~ the owner of the lagoon must follow one (1) of the steps set out in Subsections 493.04.a. through 493.04.c. ~~(3-31-22)~~( )

05. Location. (3-31-22)

a. Wastewater ~~treatment~~ lagoons ~~shall~~ must be placed ~~a minimum of two hundred (200) feet from residential property lines~~ in accordance with the provisions in Section 450.01.c. In all cases, the design location ~~shall~~ must consider odors, nuisances, etc. This distance is to the toe of the exterior slope of the dike or to the top of the cut for a lagoon placed into a hillside. More restrictive planning and zoning or other local requirements ~~shall~~ may apply. ~~(3-31-22)~~( )

b. ~~Ground Water Separation.~~ A minimum separation of two (2) feet between the bottom of the ~~pond~~ lagoon and the maximum ~~ground water~~ groundwater elevation ~~shall~~ must be ~~maintained~~ provided in the design. ~~(3-31-22)~~( )

c. ~~Bedrock Separation.~~ A minimum separation of two (2) feet between the ~~pond~~ lagoon bottom and any bedrock formation ~~shall~~ must be ~~maintained~~ provided in the design. ~~(3-31-22)~~( )

06. Basis of Design. (3-31-22)

a. Design variables such as climatic conditions, odor, ~~pond~~ lagoon depth, multiple units, detention time, and additional treatment units must be considered with respect to applicable standards for BOD_5, total suspended solids (TSS), fecal coliform, dissolved oxygen (DO), pH, and other effluent requirements and limits. ~~(3-31-22)~~( )

b. The ~~preliminary engineering report shall~~ PER must include all design criteria for the development of the ~~pond~~ lagoon design. ~~(3-31-22)~~( )

c. The reaction rate coefficient for domestic wastewater which includes some industrial wastes, other wastes, and partially treated wastewater must be determined experimentally for various conditions which might be encountered in the lagoons or actual data from lagoons in similar climates. Conversion of the reaction rate coefficient at other temperatures ~~shall~~ must be made based on experimental data. ~~(3-31-22)~~( )

d. Oxygen requirements ~~generally will depend~~ are based on the design average BOD_5 loading, the degree of treatment, and the concentration of suspended solids to be maintained. If needed for treatment objectives, aeration equipment ~~shall~~ must be ~~capable of~~ designed to maintain~~ing~~ a minimum dissolved oxygen level of two (2) mg/L in the ~~ponds~~ lagoons at all times. Suitable protection from weather ~~shall~~ must be provided for electrical controls. Aerated cells ~~shall~~ must be followed by a polishing cell with a detention time of a minimum of twenty-four (24) hours. ~~(3-31-22)~~( )

~~e. See Subsection 490.02 for details on aeration equipment.~~ ~~(3-31-22)~~

07. Industrial Wastes as a Part of the Municipal Wastewater. (3-31-22)

a. ~~Consideration shall be given to~~Design must account for the type and effects of industrial wastes on the treatment process. ~~(3-31-22)~~( )

b. Industrial wastes ~~shall~~ must not be discharged to ~~ponds~~ lagoons without assessment of the effects such substances may have upon the treatment process or ~~discharge~~ disposal requirements in accordance with state and federal laws. ~~(3-31-22)~~( )

08. Number of Cells ~~Required~~. (3-31-22)

a. A wastewater treatment ~~pond~~ lagoon system ~~shall~~ must consist of a minimum of three (3) cells designed to facilitate both series and parallel operations. Two (2) cell systems may be utilized in very small installations of less than fifty thousand (50,000) gallons per day average day flow. ~~(3-31-22)~~( )

b. All systems ~~shall~~ must be designed with piping flexibility to permit isolation of any cell without affecting the transfer and ~~discharge~~ disposal capabilities of the total system. ~~(3-31-22)~~( )

09. ~~Pond~~ Lagoon Construction Details. (3-31-22)

a. Embankments and Dikes. (3-31-22)

i. ~~Material.~~ Dikes ~~shall~~ must be constructed of relatively impervious soil and compacted to at least ninety-five (95) percent Standard Proctor Density to form a stable structure. Vegetation and other unsuitable materials ~~shall~~ must be removed from the area where the embankment is to be placed. ~~(3-31-22)~~( )

ii. ~~Top Width.~~ The minimum dike top width ~~shall~~ must be ten (10) feet to permit access for maintenance vehicles. ~~(3-31-22)~~( )

iii. ~~Maximum Slopes.~~ Inner and outer dike slopes ~~shall~~ must not be steeper than one (1) vertical to three (3) horizontal (1:3). ~~(3-31-22)~~( )

iv. ~~Minimum Slopes.~~ Inner slopes ~~should~~ must not be flatter than one (1) vertical to four (4) horizontal (1:4). Flatter slopes can be specified for larger installations because of wave action but have the disadvantage of added shallow areas being conducive to emergent vegetation. Outer slopes ~~shall~~ must be sufficient to prevent surface runoff from entering the ~~ponds~~ lagoons. ~~(3-31-22)~~( )

v. ~~Freeboard.~~ Minimum freeboard ~~shall~~ must be three (3) feet, except ~~that~~ for small systems of less than fifty thousand (50,000) gallons per day average day flow, two (2) feet ~~may be~~ is acceptable. ~~(3-31-22)~~( )

vi. ~~Design Depth.~~ The minimum operating depth ~~shall~~ must be ~~sufficient~~ designed to prevent growth of aquatic plants and damage to the dikes, bottom, control structures, aeration equipment, and other appurtenances. ~~In no case shall pond~~ Operating depth~~s~~ must not be less than two (2) feet. ~~(3-31-22)~~( )

b. ~~Pond~~Lagoon Bottom. ~~(3-31-22)~~( )

i. ~~Soil.~~ Soil used in constructing the ~~pond~~ lagoon bottom (not including the seal) and dike cores ~~shall~~ must be relatively incompressible and tight and compacted to at least ninety-five (95) percent Standard Proctor Density. ~~(3-31-22)~~( )

ii. ~~Seal. Ponds shall~~Lagoons must be sealed such that seepage loss through the seal complies with Subsection 493.03. Results of a testing program which substantiates the adequacy of the proposed seal must be incorporated into or accompany the ~~preliminary engineering report~~ PER. ~~(3-31-22)~~( )

c. Miscellaneous. (3-31-22)

i. ~~Fencing.~~ The ~~pond~~ lagoon area ~~shall~~ must be enclosed with an adequate fence to prevent ~~entering of~~ livestock entering and discourage trespassing. This requirement does not apply to ~~pond~~ lagoon areas which store or impound Class A ~~municipal reclaimed effluent~~ recycled water. ~~(3-31-22)~~( )

ii. ~~Access.~~ An all-weather access road ~~shall~~ must be provided to the ~~pond~~ lagoon site to allow year-round maintenance of the facility. (3-31-22)

iii. ~~Warning Signs.~~ Appropriate permanent signs ~~shall~~ must be provided along the fence around the ~~pond~~ lagoon to designate the nature of the facility and advise against trespassing. At least one (1) sign ~~shall~~ must be provided on each side of the site and one (1) for every five hundred (500) feet of its perimeter. ~~(3-31-22)~~( )

iv. ~~Flow Measurement.~~ Flow measurement requirements are provided in Subsection 450.06.e. Effective weather protection ~~shall~~ must be provided for the recording equipment. ~~(3-31-22)~~( )

v. ~~Ground Water Monitoring.~~ A ~~ground water~~ groundwater monitoring plan ~~shall~~ must be submitted to the Department for review and approval as a part of the ~~preliminary engineering report~~ PER. ~~An approved~~ Unless otherwise approved by the Department, a system of wells or lysimeters ~~shall be~~ is required around the perimeter of the ~~pond~~ lagoon site to facilitate ~~ground water~~ groundwater monitoring. ~~(3-31-22)~~( )

10. Closure. The owner ~~shall~~ must notify the Department at least six (6) months prior to permanently removing any wastewater lagoon facility from service, including any treatment or storage ~~pond~~ lagoon. Prior to commencing closure activities, the ~~facility shall~~ owner must: ~~(3-31-22)~~( )

a. Participate in a pre-closure on-site meeting with the Department; (3-31-22)

b. Develop a site closure plan that identifies specific closure, site characterization, or cleanup tasks with scheduled task completion dates in accordance with agreements made at the ~~pre-site closure meeting~~ pre-closure on-site meeting; and ~~(3-31-22)~~( )

c. Submit the completed site closure plan to the Department for review and approval within forty-five

(45) days of the ~~pre-site closure meeting~~ pre-closure on-site meeting. The facility must complete the Department approved site closure plan. ~~(3-31-22)~~( )

494. -- 499. (RESERVED)

500. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: DISINFECTION.

01. General. Disinfection of ~~the effluent shall~~ treated wastewater must be provided as necessary to meet applicable standards. The design of new municipal wastewater treatment facilities, or municipal wastewater treatment facilities undergoing material modifications, ~~shall consider~~ must meet~~ing both~~ the bacterial standards and the disinfectant residual limit ~~in~~ for the effluent. The disinfection process ~~shall~~ must be selected after due consideration of waste characteristics, type of treatment process provided prior to disinfection, waste flow rates, pH of waste, disinfectant demand rates, current technology application, cost of equipment and chemicals, power cost, and maintenance requirements as determined in the ~~preliminary engineering report~~ PER. Where a disinfection process other than chlorination, ultraviolet disinfection, or ozone is proposed, supporting data from pilot plant installations or similar full scale installations ~~shall be~~ are required as a basis for the design of the system. ~~(3-31-22)~~( )

02. Determining the Necessity f~~F~~or Disinfection ~~of Sewage Wastewater Treatment Plant Effluent~~. ~~(3-31-22)~~

~~**a.**~~ Disinfection ~~of~~ at a municipal wastewater treatment facility ~~effluent shall be~~ is required when: ~~(3-31-22)~~( )

~~i~~**a.** Required by ~~an NPDES~~ a surface water discharge permit; or ~~(3-31-22)~~( )

~~ii~~**b.** The effluent is ~~discharged~~ disposed to a ~~land application/reuse~~ facility ~~and is~~ required to meet the disinfection requirements ~~found~~ in IDAPA 58.01.17, "Recycled Water Rules." ~~(3-31-22)~~( )

~~iii~~**c.** The effluent ~~discharged~~ is disposed to a ~~land application/reuse~~ facility, where ~~ground water~~ groundwater contamination has exceeded the bacterial limit ~~found~~ in IDAPA 58.01.11, "~~Ground Water~~Groundwater Quality Rule~~s~~," and it has been determined by the Department that disinfection is required. ~~(3-31-22)~~( )

~~**b.** The need for disinfection of sewage wastewater treatment plant effluent where treatment consists of lagoons with at least thirty (30) day retention time shall be evaluated on a case by case basis.~~ ~~(3-31-22)~~

03. Chlorine Disinfection. (3-31-22)

a. ~~Type.~~ Chlorine is available for disinfection in gas, liquid (hypochlorite solution), and pellet (hypochlorite tablet) form. The type of chlorine ~~should~~ must be ~~carefully~~ evaluated ~~during~~ in the facility plan~~ning~~ or ~~preliminary engineering process. The use of chlorine gas or liquid will be most dependent on the size of the facility and the chlorine dose required. Large quantities of chlorine, such as are contained in ton cylinders and tank cars, can present a considerable hazard to plant personnel and to the surrounding area should such containers develop leaks. Both monetary cost and the potential public exposure to chlorine shall be considered when making the final determination~~ PER. ~~(3-31-22)~~( )

b. ~~Dosage.~~ For disinfection, the capacity ~~shall~~ must be adequate to produce an effluent that will meet the applicable bacterial limits specified by the regulatory agency for that installation. Required disinfection capacity will vary, depending on the uses and points of application of the disinfection chemical. The chlorination system ~~shall~~ must be designed on a rational basis and calculations justifying the equipment sizing and number of units ~~shall be~~ and submitted for the whole operating range of flow rates for the type of control to be used. System design considerations ~~shall~~ must include the controlling wastewater flow meter (sensitivity and location), telemetering equipment, and chlorination controls. ~~(3-31-22)~~( )

c. ~~Piping and Connections.~~ Piping systems ~~shall~~ must be as simple as practicable, specifically selected and manufactured to be suitable for chlorine service, with consideration for minimizing number of joints. Piping

~~should~~ must be well supported and protected against temperature extremes. Venting of excess gas ~~shall~~ must be provided. Special considerations ~~shall~~ must be given to piping and fixture selection for hypochlorite and chlorine use. ~~Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05.~~ ~~(3-31-22)~~( )

d. ~~Standby Equipment and Spare Parts.~~ Standby equipment of sufficient capacity ~~should~~ must be available to replace the largest unit during shutdowns. Spare parts ~~shall~~ must be available for all disinfection equipment to replace parts which are subject to wear and breakage. ~~(3-31-22)~~( )

e. Housing. (3-31-22)

i. ~~Feed and Storage Rooms.~~ Gas chlorination equipment and chlorine cylinders ~~shall~~ must be housed in a building. If this building is used for other purposes, a gas-tight room ~~shall~~ must separate this equipment from any other portion of the building. Floor drains from the chlorine room ~~shall~~ must not be connected to floor drains from other rooms. Doors to this room ~~shall~~ must open only to the outside of the building and ~~shall~~ be equipped with panic hardware. Rooms ~~shall~~ must permit easy access to all equipment. ~~Section 009 provides a reference to requirements of other regulatory entities, compliance with which may be required by other law~~ Local and state safety requirements must be satisfied. ~~(3-31-22)~~( )

ii. ~~Ventilation. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law~~Electrical and ventilation equipment must comply with local and state codes. ~~(3-31-22)~~( )

~~iii. Electrical Controls. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law.~~ ~~(3-31-22)~~

i~~v~~ii. ~~Protective and Respiratory Gear.~~ Respiratory air-pac protection equipment ~~shall~~ must be available where chlorine gas is handled, and ~~shall~~ be stored at a convenient location, but not inside any room where chlorine is used or stored. Instructions for using the equipment ~~shall~~ must be posted. ~~Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05.~~ ~~(3-31-22)~~( )

04. Dechlorination. (3-31-22)

a. Types. (3-31-22)

i. Dechlorination of wastewater effluent ~~may be necessary~~ must be provided when required to meet effluent limits to reduce the toxicity due to chlorine residuals. ~~The most common dechlorination chemicals are sulfur compounds, particularly sulfur dioxide gas or aqueous solutions of sulfite or bisulfite. Pellet dechlorination systems are also available for small facilities.~~ ~~(3-31-22)~~( )

ii. The type of dechlorination system ~~should~~ must be ~~carefully~~ selected considering ~~criteria including the following:~~ the type of chemical storage required, amount of chemical needed, ease of operation, compatibility with existing equipment, and safety. ~~(3-31-22)~~( )

b. ~~Dosage.~~ The dosage of dechlorination chemical ~~depends on~~ must consider the residual chlorine in the effluent, the final residual chlorine limit, and the ~~particular~~ form of the dechlorinating chemical used. ~~(3-31-22)~~( )

c. ~~Standby Equipment and Spare Parts.~~ The same requirements apply for standby equipment and spare parts as ~~for~~ chlorination systems. See Subsection 500.0~~4~~3.d. ~~(3-31-22)~~( )

d. ~~Housing Requirements/Feed and Storage Rooms.~~ The requirements for housing ~~SO2~~ sulfur dioxide gas equipment ~~shall~~ must follow the same guidelines as used for chlorine gas. Refer to Subsection 500.0~~4~~3.e. for specific details. When using solutions of the dechlorinating compounds, the solutions ~~may~~ must be stored in a room that meets the safety and handling requirements set forth in Subsection 450.07. The mixing, storage, and solution delivery areas must be designed to contain or route solution spillage or leakage away from traffic areas to an appropriate containment unit. ~~(3-31-22)~~( )

e. ~~Protective and Respiratory Gear.~~ The respiratory air-pac protection equipment is the same as for chlorine. See Subsection 500.0~~4.c~~3.e.iii. ~~(Refer to The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide.")~~ ~~(3-31-22)~~( )

05. Ultraviolet (UV) Radiation. (3-31-22)

a. The following documents ~~are recommended to be used as references~~ or other references acceptable to the Department must be used for UV system sizing and facility design~~:~~. ~~(3-31-22)~~( )

i. "Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy~~, referenced in Section 008~~. ~~(3-31-22)~~( )

ii. For ~~reuse~~ recycled water applications, "Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse," National Water Research Institute/AWWA Research Foundation~~, referenced in Section 008~~. ~~(3-31-22)~~( )

b. ~~For UV systems to be installed at any existing wastewater treatment facility,~~ All UV disinfection must be designed based on expected ranges of UV transmittance (UVT). For facilities larger than five million gallons per day (5 mgd) (design peak hour flow), or facilities that have industries that vary flows throughout the year, collection of one (1) year's worth of ~~UV transmittance (~~ UVT~~)~~ data (four (4) times per day) prior to ~~predesign is encouraged, especially for facilities larger than five million gallons per day (5 mgd) (design peak hour flow), and facilities that have industries that vary discharge throughout the year~~ the PER is required unless otherwise approved by the Department. ~~(3-31-22)~~( )

c. All UV disinfection facilities must include the following: ( )

i. A minimum of two (2) channels (or justification for using a smaller system); and ( )

ii. A minimum of two (2) banks of UV lamps per channel (or justification for using a smaller system). ( )

e~~d~~. The ~~preliminary engineering report~~ PER for all UV disinfection facilities ~~shall~~ must include a description of the following: ~~(3-31-22)~~( )

~~i. A minimum of two (2) open channels (or justification for using a smaller system).~~ ~~(3-31-22)~~

~~ii. A minimum of two (2) banks of UV lamps per channel (or justification for using a smaller system).~~ ~~(3-31-22)~~

i~~i~~i. ~~Description of t~~The redundancy provided~~.~~; ~~(3-31-22)~~( )

i~~v~~vi. ~~Description of t~~The upstream flow splitting device (which splits flow to the two (2) or more UV channels)~~.~~; ~~(3-31-22)~~( )

~~v~~iii. ~~Description of w~~Water level control device~~.~~; ~~(3-31-22)~~( )

iv~~i~~. ~~Description of m~~Method used to take a channel off-line for maintenance, and method to dewater a channel~~.~~; ~~(3-31-22)~~( )

v~~ii~~. Type of UV system technology (low-pressure low-intensity, low-pressure high-intensity, medium pressure, etc.), with consideration given to power consumption~~.~~; ~~(3-31-22)~~( )

vi~~ii~~. Summary of UVT data and collimated beam data~~.~~; ~~(3-31-22)~~( )

~~ix~~vii. ~~Description of HVAC~~Climate controls system requirements to ensure adequate UV system performance during summer peak temperature period~~.~~; ~~(3-31-22)~~( )

~~x~~viii. ~~Description of m~~Maintenance requirements including removal (cleaning) of biofilms from the channel walls upstream and downstream of the UV system~~.~~; ~~(3-31-22)~~( )

ix~~i~~i. ~~General description of a~~Alarming and controls~~.~~; ~~(3-31-22)~~( )

x~~ii~~. ~~Description of p~~Procedure used for UV system sizing~~.~~; and ~~(3-31-22)~~( )

xi~~ii~~. Design criteria must include: ~~(3-31-22)~~( )

(1) Design UVT~~.~~; ~~(3-31-22)~~( )

(2) TSS~~.~~; ~~(3-31-22)~~( )

(3) Design water temperature range~~.~~; ~~(3-31-22)~~( )

(4) Dose~~.~~; ~~(3-31-22)~~( )

(5) End of lamp life factor~~.~~; ~~(3-31-22)~~( )

(6) Fouling factor~~.~~; ~~(3-31-22)~~( )

(7) Quartz sleeve transmittance factor~~.~~; ~~(3-31-22)~~( )

(8) Design peak hour flow~~.~~; ~~(3-31-22)~~( )

(9) Existing minimum flow~~.~~; ~~(3-31-22)~~( )

(10) Number of channels~~.~~; ~~(3-31-22)~~( )

(11) Disinfection requirements (coliform concentration)~~.~~; and ~~(3-31-22)~~( )

(12) Maximum head-loss from upstream of the first bank to downstream of the last bank of lamps (lamp spacing divided by two (2)). (3-31-22)

~~d~~**e.** Use of bioassay method of UV system sizing is encouraged if all manufacturers under consideration have existing bioassays performed using identical protocol, and the bioassay was performed under conditions similar to the design application. Use of the bioassay method of UV system sizing is discouraged if these conditions ~~of Subsection 500.05.d.~~ cannot be met. ~~(3-31-22)~~( )

~~e~~**f.** Closed chamber units will be reviewed on a case-by-case basis in accordance with Subsection 450.03.b. ~~(3-31-22)~~( )

06. Ozone. Ozone systems for disinfection ~~shall~~ will be evaluated by the Department on a case-by-case basis. Design of these systems ~~shall~~ must be based upon experience at similar full-scale installations or thoroughly documented prototype testing ~~with the particular~~ of the wastewater. ~~(3-31-22)~~( )

501. -- 509. (RESERVED)

510. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: SUPPLEMENTAL TREATMENT PROCESSES.

01. Chemical Treatment. ~~Many c~~Chemical~~s~~ treatment in various forms can be ~~applied in wastewater treatment~~ used to aid in ~~nutrient~~ phosphorus and nitrogen removal, pH adjustment, enhanced clarification, and sludge conditioning. ( )

a. Chemical~~s~~ treatment must be evaluated for each specific treatment process in the PER and must be

compatible with other liquids, solids and air treatment processes. Laboratory tests such as jar tests or pilot-scale studies on actual process wastewater ~~shall~~ must be used to select appropriate chemicals and dosage ranges. ~~(3-31-22)~~( )

~~a. Phosphorus removal. Chemical phosphorus removal from wastewater involves the addition of metal salts (aluminum or iron) or lime to wastewater to form insoluble phosphate precipitates, removal of the precipitate from the wastewater, and disposal of the precipitate with the settled sludge. Many process options are available, and the designer shall select the chemical to insolubilize the phosphorus, estimate the dosage requirements, and select the point of chemical addition.~~ ~~(3-31-22)~~

~~b. Nitrogen Removal. Several chemical processes have been used for nitrogen removal. The three (3) major processes include breakpoint chlorination, selective ion exchange, and air stripping. Although these processes are technically feasible ways of removing nitrogen, the Department does not anticipate widespread use of chemicals for nitrogen removal, and justification to do so shall be demonstrated in the Preliminary Engineering Report.~~ ~~(3-31-22)~~

~~c. pH Adjustment. A common chemical process used in wastewater treatment is pH adjustment. Several methods are available to neutralize or adjust low pH wastewater. The methods used shall be mixing acid wastes with lime slurries, or adding the proper amount of concentrated caustic soda (NaOH) or soda ash (Na_2CO_3) as determined in the Preliminary Engineering Report.~~ ~~(3-31-22)~~

~~d~~**b.** ~~Enhanced Primary Clarification.~~ When settling aids are used during the primary clarification process to enhance solids removal in the primary treatment process, the additional solids volume ~~shall~~ must be accounted for in pumping, solids handling, stabilization, and disposal processes. The coagulant ~~shall~~ must be added and mixed before the sedimentation process. Flocculants, if used, ~~shall~~ must be added after the coagulant. The design ~~shall~~ must provide for chemical addition points at several locations to give process personnel the opportunity to adjust for optimum performance. ~~(3-31-22)~~( )

02. Filtration for Tertiary Treatment. Details for ~~plants~~ treatment facilities with tertiary treatment utilizing ~~filtration shall~~ membrane, media, cloth, or reverse osmosis must be submitted and approved in the ~~Preliminary Engineering Report~~ PER. In addition to the provisions of Section 411, the PER must include plant layout, calculations for hydraulic capacity and air required, filtration technology considered and the type and model selected, results from similar type filtration systems already in operation, and anticipated sludge production. ~~(3-31-22)~~( )

~~a. Membranes. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity and air required, membrane technology considered and membrane type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production.~~ ~~(3-31-22)~~

~~b. Media. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity, media considered and media type selected, results from similar type filtration plants already in operation, and anticipated sludge production.~~ ~~(3-31-22)~~

~~c. Cloth. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity, technology considered and type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production.~~ ~~(3-31-22)~~

~~d. Reverse Osmosis. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity required, technology considered and type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production.~~ ~~(3-31-22)~~

511. -- 518. (RESERVED)

519. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: SEPTAGE TRANSFER STATIONS.
Prior to construction of a new septage transfer station or upon material modification of an approved existing station, the owner of the station must satisfy the following requirements. ~~(3-31-22)~~( )

01. Design. Septage holding tanks, transfer/storage tanks, and transfer hoses for either type of tank ~~shall~~ will meet the applicable ~~requirements~~ provisions of Subsections 519.01.a. through 519.01.c. ~~(3-31-22)~~( )

a. All tanks ~~shall~~ will be watertight, not open to the air, and provided with containment structures to prevent the discharge of septage spills to the surrounding environment. ~~(3-31-22)~~( )

b. All piping, transfer hoses, valves, and connections ~~shall~~ will be watertight, accessible, and capable of being cleaned, repaired, and replaced. ~~(3-31-22)~~( )

c. All inlet and outlet connections ~~shall~~ will be constructed and maintained such that septage will not leak, spill, or overflow the holding tank. ~~(3-31-22)~~( )

d. No septage holding or transfer/storage tank ~~shall~~ will be permitted within the one hundred (100) year flood plain as defined and delineated by the flood insurance rate maps published by the Federal Emergency Management Agency. ~~(3-31-22)~~( )

e. Odor controls ~~shall~~ will be provided to mitigate nuisance odor ~~discharge~~ during transfer. Odor control may be attained by employing appropriate setback distances to neighboring facilities, using appropriate air scrubbing technologies in conjunction with an enclosed transfer station or other suitably engineered configuration that provides assurances of minimal odor nuisances. ~~(3-31-22)~~( )

f. The property is owned by the individual~~(s)~~ operating the septage transfer station, or the property owner has granted permission to ~~so~~ use the property. ~~(3-31-22)~~( )

g. Septage transfer stations ~~shall~~ will provide total containment for the entire volume of the holding tanks and transfer/storage tanks in the event of spilled septage. ~~(3-31-22)~~( )

h. Truck washing facilities ~~shall~~ will be constructed to retain all wash water on site. ~~(3-31-22)~~( )

02. Plans and Specifications. In addition to the ~~requirements~~ provisions of Section 400, plans and specifications for septage transfer stations ~~must include the requirements of Subsections 519.02.a. through 519.02.f.~~ will provide or identify: ~~(3-31-22)~~( )

a. A map which identifies the proposed septage holding or transfer/storage tank location~~.~~; ~~(3-31-22)~~( )

b. The footprint of the proposed activity area~~.~~; ~~(3-31-22)~~( )

c. All access roads and access control measures~~.~~; ~~(3-31-22)~~( )

d. All roads, property boundary lines, and structures within two hundred (200) feet of the septage holding or transfer/storage tank location; any structures on the property; and any easements or rights-of-way which exist on the property~~.~~; ~~(3-31-22)~~( )

e. Surrounding land use within two hundred (200) feet of the footprint of the proposed activity area on which the septage holding or transfer/storage tank is proposed to be located~~.~~; and ~~(3-31-22)~~( )

f. A spill response plan, describing spill response equipment and disinfection and containment capability at the septage transfer station, ~~shall~~ must be submitted to and approved by the Department. ~~(3-31-22)~~( )

03. Record Keeping. Every owner of a septage transfer station ~~shall~~ will maintain the following records for a minimum of five (5) years. ~~(3-31-22)~~( )

a. For each load of septage received: (3-31-22)

i. The date received or picked up; (3-31-22)

ii. The name and address of the client~~(s)~~ from whom the septage was received; and ~~(3-31-22)~~( )

iii. The volume of the septage received, in gallons; and (3-31-22)

b. Records indicating the final disposal destination~~(s)~~ for septage removed from the transfer/storage tank. ~~(3-31-22)~~( )

520. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER ~~TREATMENT OR DISPOSAL FACILITIES~~ SYSTEMS: HANDLING AND TREATMENT OF SEPTAGE AT A WASTEWATER TREATMENT ~~PLANT~~ FACILITY.

01. General. Septage disposal at a wastewater treatment plant is at the discretion of the owner of the wastewater treatment plant, unless other conditions apply. ~~One method of septage disposal is the discharge to a municipal wastewater treatment plant.~~ All ~~plants~~ treatment facilities require special design considerations prior to the acceptance of septage. Prior to acceptance of septage at a wastewater treatment ~~plant~~ facility, the plan for doing so must be addressed in the Facility Plan or PER. ~~(3-31-22)~~( )

02. Characteristics. ~~Tables No. 1 and No. 2 (Tables 3-4 and 3-8 from~~ Prior to acceptance at a treatment facility, septage must be characterized. ~~t~~The U.S. EPA Handbook entitled "Septage Treatment and Disposal" 1984, EPA-625/6-84-009) ~~give a comparison of some of the~~ may be used to estimate common parameters for septage and municipal wastewater. ~~These tables are located at the end of Appendix A-3 of the Recommended Standards for Wastewater Facilities. See Section 008 of these rules.~~ ~~(3-31-22)~~( )

03. Considerations. ~~It is essential that an adequate~~ An engineering evaluation of the existing ~~plant~~ treatment facility and the anticipated septage loading must be conducted prior to receiving septage at the ~~plant~~ treatment facility. ~~The wastewater treatment plant owner shall be contacted to obtain the appropriate approvals prior to the acceptance of septage.~~ For proposed ~~plant~~ treatment facility expansion and upgrading, the ~~Preliminary Engineering Report and Facility Plan shall~~ PER or facility plan must include anticipated septage loading in addressing treatment ~~plant~~ facility sizing and process selection. ~~(3-31-22)~~( )

521. -- 599. (RESERVED)

600. LAND APPLICATION OF WASTEWATER~~(S)~~ OR RECHARGE WATERS.
Land application of wastewater or recharge waters is subject to the following ~~requirements~~: ~~(3-31-22)~~( )

01. ~~Land Application~~/Reuse Permit. ~~Idaho Department of Environmental Quality Rules,~~ IDAPA 58.01.17, "Recycled Water Rules," ~~require~~ govern when a permit prior to land application~~/~~ or reuse of certain types of wastewater is necessary. ~~(3-31-22)~~( )

02. Applied Waters Restricted to Premises. Wastewater~~(s)~~ or recharge waters applied to the land surface must be restricted to the premises of the application site. ~~Wastewater discharges to surface water that require a permit under the Clean Water Act must be authorized by the U.S. Environmental Protection Agency.~~ ~~(3-31-22)~~( )

03. Hazard or Nuisance Prohibited. Wastewaters or recharge waters must not create a public health hazard or a nuisance condition. ~~(3-31-22)~~( )

04. Monitoring. Provision must be made for monitoring the quality of the ~~ground water~~ groundwater in proximity of the application site. The ~~ground water~~ groundwater monitoring program is subject to approval by the Department. All data and reports resulting from the ~~ground water~~ groundwater monitoring program must be submitted to the Department upon request. ~~The minimum~~ To determine the frequency of monitoring and data submittal ~~will be determined by~~, the Department ~~and in general will be dependent upon~~ will consider the following: ~~(3-31-22)~~( )

a. The nature and volume of wastewater ~~material~~ or recharge water; ~~(3-31-22)~~( )

b. The frequency and duration of application; and (3-31-22)

c. The characteristics of the soil mantle on and lithology underlying the application site. (3-31-22)

05. Basis for Evaluation. The evaluation for an approval to irrigate, either by sprinkling or flooding or surface spreading of wastewater ~~material or by burying wastewater material~~ or recharge water in the upper soil horizon as a method of treatment, must include, but will not ~~necessarily~~ be limited to, consideration of the following ~~items~~: ~~(3-31-22)~~( )

a. The type and quantity of wastewater~~(s)~~ or recharge water proposed for land application. In general, the ~~wastewater(s)~~ organic constituents are to be biologically degradable and inorganic constituents must be utilized by vegetation or those organisms normally present in the soil. Other wastewater~~(s)~~ or recharge waters will be considered provided it can be shown that land application will not adversely affect beneficial uses of waters ~~of the state~~. ~~(3-31-22)~~( )

b. The nature of the soils and geologic formations underlying the application site. The entity proposing the activity must provide reasonable assurance that the soils and site geology will provide the required level of treatment and will not allow movement of pollutants into the underlying ~~ground water~~ groundwater. ~~(3-31-22)~~( )

c. The ability of the soil and vegetative cover on the application site to remove the pollutants contained in the applied waters through the combined processes of consumptive use and biological and chemical inactivation. (3-31-22)

601. -- 649. (RESERVED)

650. SLUDGE ~~USAGE~~ MANAGEMENT PROGRAM.

01. ~~Disposal~~ Plans ~~Required~~. Sludge can be disposed or utilized ~~as soil augmentation~~ only in conformance with: ~~(3-31-22)~~( )

a. A Department approved sludge disposal plan; ~~or~~ ~~(3-31-22)~~( )

b. A Department approved sludge use plan; or ( )

~~b~~c. Procedures and in a manner approved by the Department on a site-by-site basis. (3-31-22)

02. Basis for Evaluation. Sludge disposal plans and sludge ~~utilization proposals~~ use plans will be evaluated by the Department ~~in regard to~~ regarding their protection of water quality and public health. ~~(3-31-22)~~( )

03. Elements of Sludge Disposal Plans. Plans must at a minimum provide: ( )

a. Method of sludge transportation and disposal; ( )

b. Location of disposal and applicable acceptance criteria; ( )

c. Amount of sludge to be disposed, and whether the disposal is ongoing or one-time; and ( )

d. Emergency procedures, including spill cleanup, notification, and reporting procedures. ( )

0~~3~~4. Elements of Sludge Use Plans ~~and Proposals~~. Plans ~~and proposals~~ must at a minimum provide: ~~(3-31-22)~~( )

a. That only stabilized sludge will be used~~.~~; ~~(3-31-22)~~( )

b. The criteria utilized for site selection, including: (3-31-22)

i. Soil description; (3-31-22)

ii. Geological features; (3-31-22)

iii. Groundwater characteristics; (3-31-22)

iv. Surrounding land use; (3-31-22)

v. Topography; and (3-31-22)

vi. Climate.; (3-31-22)( )

c. A description of the transportation and application process.; (3-31-22)( )

d. A statement detailing procedures to prevent application which could result in a reduction of soil productivity or in the percolation of excess nutrients.; (3-31-22)( )

e. Identification of potential adverse health effects in regard to regarding the sludge and its proposed use.; (3-31-22)( )

f. Delineation of methods or procedures to be used to alleviate or eliminate adverse health effects.; (3-31-22)( )

g. Emergency procedures, including spill cleanup, notification, and reporting procedures; and ( )

h. Recordkeeping and reporting procedures. ( )

045. Reference to Federal Regulations. See Code of Federal Regulations, 40 CFR, Part 503, Standards for the Use or Disposal of Sewage Sludge. (3-31-22)

651. -- 659. (RESERVED)

660. WAIVERS.
Waivers from the requirements provisions of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waiver(s) that such activities for which the waivers are granted will have no significant impact on the environment or on the public health are not necessary for the protection of public health and the environment, and that the facilities are satisfactorily operated and maintained. (3-31-22)( )

661. -- 999. (RESERVED)

Sections Affected Index

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.03 – Daycare Licensing

Docket No. 16-0603-2501 (Chapter Rewrite)

001. Incorporation By Reference. 21
002. Definitions. 21
0023. – 008. (Reserved) 22
009. Background Check Requirements. 22
010. – 120. (Reserved) 23
121. Application For Daycare License Or Renewal. 23
122. (Reserved) 24
123. Disposition Of Applications. 24
124. – 149. (Reserved) 25
150. Restrictions On Applicability And Nontransfer. 25
380. Health Standards. 25
400. Buildings, Grounds, Furnishings, And Equipment. 28
421. ICCP eligibility For Benefits. 29
422. Income Limits. 29
427. Redetermination Of Eligibility for Child Care Benefits. 30
434. Allowable Child Care Costs. 30

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.03.04 – Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

Docket No. 20-0304-2401 (ZBR Chapter Rewrite)

000. Legal Authority. 34
001. Title And Scope. 34
002. Administrative Appeals. 34
003. Incorporation By Reference. 34
004. -- 009. (Reserved) 35
010. Definitions. 35
011. Abbreviations. 38
012. Policy. 38
013. -- 014. (Reserved) 38
015. Encroachment Standards. 39
016. -- 019. (Reserved) 46
020. Applications. 46
021. -- 024. (Reserved) 49
025. Processing Of Applications For Single-Family And Two-Family Navigational Encroachments Within Line Of Navigability. 49
026. -- 029. (Reserved) 50
030. Processing Of Applications For All Other Types Of Encroachments. 50
031. -- 034. (Reserved) 52
035. Temporary Permits. 52
036. -- 049. (Reserved) 52
050. Recordation. 52
051. -- 054. (Reserved) 52
055. Leases And Easements. 52
056. -- 059. (Reserved) 53
060. Installation. 53
061. -- 064. (Reserved) 53
065. Assignments. 53

066. -- 069. (Reserved) 54
070. Miscellaneous. 54
071. -- 079. (Reserved) 54
080. Violations - Penalties. 54
081. -- 999. (Reserved) 55

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities

Docket No. 26-0120-2501 (Fee Rule)

Fee Schedule: Fee Collection Surcharge. 58
Fee Schedule: Entrance. 58
Fee Schedule: Individual Campsite Or Facility. 58
Fee Schedule: Group Campsite or Facility. 58
Fee Schedule: Boating Facilities. 59
075. Authority Conferrable On Employees - Enforcement. 60
204. Winter Recreation Programs. 60
245. Fee Schedule: Fee Collection Surcharge. 61
246. (Reserved) 61
247. Fee Schedule: Entrance. 61
248. -- 249. (Reserved) 61
250. Fee Schedule: Individual Campsite Or Facility. 61
251. -- 253. (Reserved) 62
254. Fee Schedule: Group Campsite or Facility. 62
255. (Reserved) 62
256. Fee Schedule: Boating Facilities. 62
276. Fee Schedule: Reservations. 62

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – Idaho Sales and Use Tax Administrative Rules

Docket No. 35-0102-2501 (ZBR Chapter Rewrite)

000. Legal Authority (Rule 000). 65
001. Title And Scope (Rule 001). 65
002. Administrative Appeals (Rule 002). 65
003. Incorporation By Reference (Rule 003). 65
0042. -- 010. (Reserved) 65
011. Mixed Transactions (Rule 011). 65
012. Contractors Improving Real Property (Rule 012). 67
013. Road, And Paving, And Earthwork Contractors (Rule 013). 70
014. Contractors/Retailers (Rule 014). 72
015. Well Drillers/Pump Installers (Rule 015). 73
016. Retail Sale Of Asphalt, Concrete, And Concrete Products (Rule 016).(Reserved) 74
017. Dining on Airlines, Buses, And Railway Dining Cars Transportation (Rule 017). 75
018. Retailer Defined (Rule 018).(Reserved) 75
019. Sales By County Sheriffs (Rule 019). 76
020. Auctioneer, Agent, Broker, Distributor And Factors (Rule 020). 76
021. Multi-Level Marketing Firms (Rule 021). 76
022. Drop Shipments (Rule 022). 76
023. (Reserved) 78
024. Rentals Or Leases Of Tangible Personal Property (Rule 024). 78
025. The Sale, Lease, or Rental Of Real Property (Rule 025).(Reserved) 80
026. (Reserved) 81
027. Computer Equipment, Software, And Data Services (Rule 027). 81

028. Hotels, Motels, Lodging, And Campgrounds (Rule 028). ... 85
029. Producing, Fabricating, And Processing (Rule 029). ... 85
030. Admissions Defined (Rule 030). ... 86
031. Radio And Telecommunications Equipment And Land Mobile Radio Service Of Systems (Rule 031). ... 87
032. (Reserved) ... 88
033. Sales And Free Distribution Of Newspapers And Magazines (Rule 033). ... 88
034. (Reserved) ... 89
035. Layaway Sales (Rule 035). ... 89
036. Signs And Billboards (Rule 036). ... 89
037. Aircraft And Flying Services (Rule 037). ... 90
038. Flying Clubs (Rule 038). ... 93
039. Bullion, Coins, Or Other Currency (Rule 039).(Reserved) ... 94
040. Professional Taxidermisty (Rule 040). ... 94
041. Food, Meals, Or Drinks (Rule 041). ... 95
042. Price And Product Labels (Rule 042). ... 97
043. Sales Price Or Purchase Price Defined (Rule 043). ... 97
044. Trade-Ins, And Trade-Downs And Barter (Rule 044). ... 99
045. Rescinded Sale, Refunds Of Purchase Price (Rule 045). ... 101
046. Coatings On Tangible Personal Property (Rule 046). ... 102
047. Outfitters, Guides, And Like Operations (Rule 047). ... 103
048. Manufactured Homes (Mobile Homes) And Modular Buildings (Rule 048). ... 105
049. Warranties And Service Agreements (Rule 049). ... 106
050. Veterinarians And Veterinary Supplies (Rule 050). ... 107
051. Discounts, Coupons, Rebates, And Gift Certificates (Rule 051). ... 107
052. Purchase And Sale Of Tangible Personal Property Relating To Funeral Services (Rule 052). 109
053. Fees Charged For Fax Services (Rule 053).(Reserved) ... 110
054. Persons Engaged In Printing (Rule 054). ... 110
055. Persons Engaged In Advertising (Rule 055). ... 111
056. Photographers And Photofinishers (Rule 056). ... 116
057. Dry Cleaners, Laundries, Laundromats, And Linen Suppliers (Rule 057). ... 117
058. Sales Through Vending Machines (Rule 058). ... 117
059. Sales By Florists (Rule 059). ... 119
060. Federal Excise Taxes And Retailers Taxes (Rule 060). ... 119
061. Transportation, Freight, And Handling Charges (Rule 061). ... 119
062. Repairs Sale Of Parts And Material To Tangible Personal Property (Rule 062). ... 120
063. Bad Debts And Repossessions (Rule 063). ... 121
064. (Reserved) ... 123
065. Tires Balancing, Studding, And Siping (Rule 065). ... 123
066. Contractor's Use Of Tangible Personal Property (Rule 066).(Reserved) ... 124
067. Real Property (Rule 067). ... 124
068. Collection Of Tax (Rule 068). ... 126
069. Interstate Commerce (Rule 069). ... 127
070. Seller’s Permits (Rule 070). ... 127
071. (Reserved) ... 128
072. Application And Payment Of Use Tax (Rule 072). ... 128
073. Tangible Personal Property Brought Or Shipped To Idaho (Rule 073). ... 130
074. Donations To Political Subdivisions And Certain Nonprofit Organizations Of Tangible Personal Property Used For Improvements To Real Property (Rule 074). ... 131
0754. -- 076. (Reserved) ... 132
077. Exemption For Research And Development At The Idaho National Laboratory (INL) (Rule 077). ... 132
078. Motor Fuels (Rule 078). ... 133

079. Production Exemption (Rule 079). 133
080. Lumber Manufacturing (Rule 080). 136
081. Underground Mining (Rule 081). 138
082. Aboveground, Open Pit, Mining (Rule 082). 139
083. Farming And Ranching (Rule 083). 140
084. Containers Returnable/Nonreturnable (Rule 084). 142
085. Sales To And Purchases By Nonprofit Organizations (Rule 085). 143
086. Sales And Purchases By Religious Organizations (Rule 086). 145
086. – 087. Lease Or Rental Of Motion Picture Television Film (Rule 087).(Reserved) 146
088. Sale Or Purchase Of Matter Used To Produce Heat By Burning (Rule 088). 146
089. Boy Scout, Girl Scout And 4-H Group Sales And Purchases (Rule 089). 147
089. – 090. Gas, Water, Electricity Delivered To Customers (Rule 090).(Reserved) 147
091. Sales To American Indians Tribal Members (Rule 091). 148
092. Out-Of-State Sales (Rule 092). 148
093. Sales And Use Tax Liability Of Federal And State Credit Unions, National And State Banks, And Federal And State Savings And Loan Associations (Rule 093).(Reserved) 148
094. Exemptions On Purchases By Political Subdivisions, Sales By The State Of Idaho, Its Departments, Institutions, And All Other Political Subdivisions (Rule 094). 148
095. Money-Operated Dispensing Equipment (Rule 095). 150
096. Irrigation Equipment And Supplies (Rule 096). 150
097. Yard Sales (Rule 097).(Reserved) 151
098. Foreign Diplomats (Rule 098). 151
099. Occasional Sales (Rule 099). 151
100. Prescriptions (Rule 100). 155
101. Motor Vehicles And Trailers Used In Interstate Commerce (Rule 101). 156
102. Logging (Rule 102). 157
103. (Reserved) 159
104. Railroad Rolling Stock, Parts, Materials And Equipment (Rule 104). 159
105. Time And Imposition Of Tax, Returns, Payments, And Partial Payments (Rule 105). 160
106. Vehicle Sales, Rentals, And Leases (Rule 106). 163
107. Vehicles And Vessels – Gifts, Military Personnel, Nonresidents, New Residents, Tax Paid To Another State, Sales To Family Members, Sales To American Indians, And Other Exemptions (Rule 107). 165
108. Purchase Or Use Of Vehicles Manufacturer'sBy Dealers, Rental Company'ies, And Dealer's Purchase Or Use Of Vehicles (Rule 108) Manufacturers. 169
109. Amusement Devices (Rule 109). 170
110. Returns Filed By County Assessors And Financial Institutions (Rule 110). 171
111. Records Required And Auditing Of Records (Rule 111). 172
112. Direct Pay Authority (Rule 112). 174
113. Recreational Vehicle Registration (Rule 113). 175
114. Sales Under The SNAP And WIC Programs, Records Required For Payments With Electronic Benefit Transfer Cards And WIC Tender (Rule 114). 175
115. Records Required, Nontaxed Sales By Retail Food Stores (Rule 115). 175
116. Bonding (Rule 116). 176
117. Refund Claims (Rule 117). 177
118. Responsibility For Payment Of Sales Taxes Due From Corporations, Limited Liability Companies, And Partnerships (Rule 118). 178
119. Successor's Liability (Rule 119). 179
120. Jeopardy Determination (Rule 120). 179
121. (Reserved) 180
122. Interest On Deficiencies, Refunds, And Estimated Returns (Rule 122). 180
123. Additions And Penalties (Rule 123). 180
124. Collection And Enforcement (Rule 124). 181

125. Distribution Of Sales Tax Revenues (Rule 125).(Reserved) ... 181
126. Sales Tax Collected By The Idaho State Liquor Dispensary Division (Rule 126). ... 181
127. Free Distribution Newspapers (Rule 127).(Reserved) ... 181
128. Certificates For Resale And Other Exemption Claims (Rule 128) ... 181
129. Use Of A Recreational Facility, And Instructional Fees, And Pari-Mutuel Betting (Rule 129) ... 187
130. Promoter Sponsored Events (Rule 130). ... 188
131. -- 132. (Reserved) ... 189
133. Radio And Television Broadcast Equipment (Rule 133). ... 189
134. Sales Of Livestock (Rule 134). ... 189
134 – 135. Snowgrooming And Snowmaking Equipment (Rule 135).(Reserved) ... 189
136. Rebates Paid To Certain Real Estate Developers (Rule 136). ... 190
137. Imposition Of The Prepaid Wireless E911 Fee (Rule 137). ... 190
1387. -- 999. (Reserved) ... 191

35.01.06 – Hotel/Motel Room and Campground Sales Tax Administrative Rules

Docket No. 35-0106-2501 (ZBR Chapter Rewrite)

000. Legal Authority (Rule 000). ... 193
001. Title And Scope (Rule 001). ... 193
002. Administrative Appeals (Rule 002). ... 193
0032. Lodging Operators And Short-Term Rental Marketplaces (Rule 003). ... 194
0043. -- 009. (Reserved) ... 194
010. Definitions (Rule 010). ... 194
011. Accommodations Tax (Rule 011). ... 194
012. District Boundaries (Rule 012). ... 195
013. Registration (Rule 013). ... 195
0142. Room Or Campground Charge Defined (Rule 014). ... 195
0153. Separately Statement Of Stated Tax (Rule 015). ... 195
0164. Exemptions (Rule 016). ... 195
0175. Records Required (Rule 017) Retention. ... 197
018. Returns (Rule 018). ... 197
0196. Deficiencies, Collections, And Enforcement (Rule 019). ... 197
020. Distribution (Rule 020). ... 198
02117. Sales Tax Rules Apply Unless Otherwise Provided (Rule 021). ... 198
02218. -- 999. (Reserved) ... 198

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION

38.04.04 – Rules Governing Capitol Mall Parking

Docket No. 38-0404-2501 (ZBR Chapter Rewrite)

000. Legal Authority. ... 200
001. Scope. ... 200
002. -- 009. (Reserved) ... 200
010. Definitions. ... 200
011. -- 019. (Reserved) ... 201
020. Parking Lot Locations. ... 201
021. Types Of Available Parking. ... 201
022. Parking Space Allocation. ... 201
023. -- 029. (Reserved) ... 204
030. Parking Permits. ... 204
031. Parking Permit Fees. ... 204
032. -- 039. (Reserved) ... 205
040. Parking Lot Violations. ... 205
041. Enforcement. ... 206
042. Suspension Or Revocation Of Parking Privileges. ... 207

043. Surrender Of Parking Permit. 207
044. -- 049. (Reserved) 207
050. Loading Zone Parking Spaces. 208
051. Waiver Of Rules. 208
0521. -- 999. (Reserved) 208

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 – Rules for the Control of Air Pollution in Idaho

Docket No. 58-0101-2501

107. Incorporations By Reference. 210

58.01.08 – Idaho Rules for Public Drinking Water Systems

Docket No. 58-0108-2501

002. Incorporation By Reference And Availability Of Referenced Materials. 214
003. Definitions. 216
004. Waivers, Variances, And Exemptions. 225
005. Disapproval Designation. 226
007. Fee Schedule For Public Drinking Water Systems. 226
010. Confidentiality Of Records. 228
010. Drinking Water Advisory Committee. 228
011. -- 049. (Reserved) 228
050. Licensed Operator Requirements. 228
051. Contracting For Services. 228
052. Classification Of Water Systems. 228
053. – 099. (Reserved) 229
050100.Maximum Contaminant Levels And Maximum Residual Disinfectant Levels 229
051. -- 099. (Reserved) 229
1001. Monitoring And Analytical Requirements. 229
101. -- 149. (Reserved) 230
1502. Reporting, Public Notification, Recordkeeping. 231
103. Maximum Contaminant Level Goals And Maximum Residual Disinfection Level Goals. 231
104. Filtration And Disinfection. 231
105. Control Of Lead And Copper. 234
106. Use Of Non-Centralized Treatment Devices. 234
107. Treatment Techniques. 236
108. Disinfection Residuals, Disinfection Byproducts, And Disinfection Byproduct Precursors. 236
109. – 110. (Reserved) 236
1511. Consumer Confidence Reports. 236
112. Enhanced Filtration And Disinfection - Systems Serving Ten Thousand Or More People 236
152. -- 249113. (Reserved) 236
114. Ground Water Rule. 236
115. Enhanced Filtration And Disinfection - Systems Serving Fewer Than Ten Thousand People 237
116. Initial Distribution System Evaluations. 237
117. Stage 2 Disinfection Byproducts Requirements. 237
118. Enhanced Treatment For Cryptosporidium – Long Term 2 Enhanced Surface Water Treatment Rule. 237
119. Revised Total Coliform Rule. 238
120. Control Of Per- And Polyfluoroalkyl Substances (PFAS). 238
121. – 199. (Reserved) 239
250. Maximum Contaminant Level Goals And Maximum Residual Disinfection Level Goals. 239
251. -- 299. (Reserved) 239
300. Filtration And Disinfection. 239
301. Enhanced Filtration And Disinfection - Systems Serving Ten Thousand Or More People 241
30200.Sanitary Surveys. 242

303201. – 499. (Reserved) 243
304. Composite Correction Program (CCP). 243
305. Coliform Treatment Technique Triggers And Assessment Requirements For Protection Against Potential Fecal Contamination. 243
306. -- 309. (Reserved) 244
310. Enhanced Filtration And Disinfection - Systems Serving Fewer Than Ten Thousand People.. 244
311. Enhanced Treatment For Cryptosporidium -- Long Term 2 Enhanced Surface Water Treatment Rule. 244
312. -- 319. (Reserved) 245
320. Disinfectant Residuals, Disinfection Byproducts, And Disinfection Byproduct Precursors..... 245
321. Initial Distribution System Evaluations. 245
322. Stage 2 Disinfection Byproducts Requirements. 245
323. Ground Water Rule. 245
324. -- 349. (Reserved) 246
350. Control Of Lead And Copper. 246
351. Control Of Per- And Polyfluoroalkyl Substances (PFAS). 246
352. -- 399. (Reserved) 246
400. Secondary MCLS. 246
401. -- 449. (Reserved) 246
510. Siting And Construction Of Wells. 246
518. Additional Design Criteria For Surface sources. 252
552. Operating Criteria For Public Water Systems. 254
553. Classification Of Water Systems. 258
554. Licensed operator Requirements. 259
555. -- 559. (Reserved) 259
560. Contracting For Services. 259
561. -- 562. (Reserved) 259
563. Advisory Group. 259
56453. -- 999. (Reserved) 259

58.01.11 – Ground Water Quality Rule

Docket No. 58-0111-2501 (ZBR Chapter Rewrite)

000. Legal Authority. 261
001. Title And Scope. 261
002. Administrative Appeals. 262
003. Written Interpretations. 262
003. Incorporation By Reference. 262
004. Referenced Material. 262
0045. -- 0056. (Reserved) 262
006. Policies. 262
007. Definitions. 263
008. -- 010. (Reserved) 265
011. Incorporation By Reference. 265
012. -- 149. (Reserved) 265
150. Implementation. 265
151. -- 199. (Reserved) 266
200. Ground Water Groundwater Quality Standards. 266
201. -- 299. (Reserved) 271
300. Categorized Aquifers Of The State. 271
301. Management Of Activities With The Potential To Degrade Aquifers. 271
302. -- 349. (Reserved) 272
350. Procedures For Categorizing Or Recategorizing An Aquifer 272
351. -- 399. (Reserved) 274

400. Ground Water Groundwater Contamination. 274
401. Mining. 275
402. -- 999. (Reserved) 278

58.01.12 – Rules for Administration of Wastewater and Drinking Water Loan Funds

Docket No. 58-0112-2501 (ZBR Chapter Rewrite)

000. Legal Authority. 280
001. Title And Scope. 280
002. (Reserved) 280
003. Administrative Appeals. 281
004. Incorporation By Reference And Availability Of Referenced Material. 281
005. Confidentiality. 281
006. Policy. 281
005. -- 006. (Reserved) 281
007. Definitions. 281
008. Eligible Systems. 285
009. Ineligible Systems. 286
010. Financial And Management Capability Analysis. 286
011. -- 019. (Reserved) 287
020. Priority Rating System. 287
021. Disadvantaged Loans and Affordability. 289
022. Supplemental Grants. 291
023. -- 029. (Reserved) 291
030. Project Scope And Funding. 291
031. Limitation Of Preloan Engineering Reviews. 293
032. Loan Fee. 293
033. -- 039. (Reserved) 293
040. Loan Application And Review. 293
041. Determination Of Eligibility Of Costs. 295
042. Environmental Review. 298
043. -- 049. (Reserved) 299
050. Loan Offer And Acceptance. 299
051. Accounting And Auditing Procedures. 301
052. -- 059. (Reserved) 301
060. Disbursements. 301
061. Loan Consolidation. 301
062. -- 079. (Reserved) 301
080. Suspension Or Termination Of Loan Contracts. 301
081. -- 994. (Reserved) 302
995. Waivers Of Requirements And Amendment Of Priority List. 302
996. -- 999. (Reserved) 302

58.01.16 – Wastewater Rules

Docket No. 58-0116-2501 (ZBR Chapter Rewrite)

000. Legal Authority. 305
001. Title And Scope. 305
002. Written Interpretations(Reserved). 305
003. Administrative Provisions. 305
004. Incorporation By Reference. 305
005. Office Hours – Mailing Address And Street Address. 305
006. Confidentiality Of Records. 305
005. -- 006. (Reserved) 305
007. Use Of Guidance In Design And Review. 305
008. Referenced Material. 306

009. Laws And Codes Outside Of These Rules. 307
010. Definitions. 307
011. -- 200. (Reserved) 316
201. Point Source Wastewater Treatment System Requirements. 316
202. Classification Of Public Community Wastewater Systems. 317
203. Public Community Wastewater System Operator Licensure Requirements. 318
204. Contracting For Services. 319
205. -- 259. (Reserved) 319
260. Subsurface Sewage Or Waste Disposal. 319
261. -- 399. (Reserved) 319
400. Review Of Plans For Municipal Wastewater Treatment Or Disposal Facilities Systems. 319
401. Review Of Plans For Nonmunicipal Wastewater Treatment Or Disposal Facilities Systems. 322
402. Plan And Specification Review Dispute Resolution. 323
403. -- 408. (Reserved) 323
409. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Demonstration Of Technical, Financial, And Managerial Capacity. 323
410. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Facility Plans. 324
411. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Preliminary Engineering Reports. 327
412. -- 419. (Reserved) 331
420. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Submission Of Plans And Support Documents. 331
421. -- 424. (Reserved) 331
425. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Operation And Maintenance Manuals. 331
426. -- 429. (Reserved) 331
430. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems -- Design And Construction Of Wastewater Pipelines. 332
431. -- 439. (Reserved) 336
440. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Wastewater Pumping Stations. 336
441. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Individual Residence Service Connection Wastewater Pumping Stations. 343
442. – 449. (Reserved) 345
450. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Wastewater Treatment Facilities: General. 345
451. -- 454. (Reserved) 350
455. Private Municipal Wastewater Treatment Plants. 350
456. -- 459. (Reserved) 353
460. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Screening And Grit Removal. 354
461. -- 469. (Reserved) 354
470. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Settling. 354
471. -- 479. (Reserved) 354
480. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Sludge Processing, Storage, And Disposal. 354
481. -- 489. (Reserved) 355
490. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Biological Treatment. 355
491. -- 492. (Reserved) 359
493. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Wastewater Lagoons. 359
494. -- 499. (Reserved) 363

500. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Disinfection. 363
501. -- 509. (Reserved) 366
510. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Supplemental Treatment Processes. 366
511. -- 518. (Reserved) 367
519. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities -- Systems: Septage Transfer Stations. 367
520. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities Systems: Handling And Treatment Of Septage At A Wastewater Treatment Plant Facility. . 369
521. -- 599. (Reserved) 369
600. Land Application Of Wastewater(s) Or Recharge Waters. 369
601. -- 649. (Reserved) 370
650. Sludge Usage Management Program. 370
651. -- 659. (Reserved) 371
660. Waivers. 371
661. -- 999. (Reserved) 371

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT
TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all required information concerning their intent to change or make new the following rules in the latest publication of the state Administrative Bulletin.

The proposed rule public hearing request deadline is September 17, 2025, unless otherwise posted.
The proposed rule written comment submission deadline is September 24, 2025, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036

16-0313-2501, Consumer-Directed Services. (*PH) Chapter Repeal moves and consolidates necessary provisions under docket 16-0326-2501.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
PO Box 83720, Boise, ID 83720-0050

20-0304-2401, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho. (*PH) Zero-Based Regulation (ZBR) Chapter Rewrite regulates docks, marinas, piers, buoys, pilings, breakwaters, boat ramps, and other facilities used to support water craft, as well as landfills, bridges, utility lines, float homes, boat garages, and other structures as encroachments on, in, or above navigable lakes in the state for the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality.

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION
5657 Warm Springs Ave, Boise, ID 83716

26-0120-2501, Rules Governing the Administration of Park and Recreation Areas and Facilities. (*PH) Proposed changes remove outdated references, clarify unclear language, and update fees to the maximum statutory cap to align with economic climate.

IDAPA 35 – STATE TAX COMMISSION
PO Box 36, Boise ID 83722-0036

35-0102-2501, Idaho Sales and Use Tax Administrative Rules. (*PH) ZBR Chapter Rewrite aims to reach the full jurisdictional extent of Idaho's authority to impose an excise tax upon each sale at retail of the sales price of all property subject to taxation under this act and on the storage, use, or other consumption in this state of tangible personal property. Comment by 10/16/25

35-0106-2501, Hotel/Motel Room and Campground Sales Tax Administrative Rules. (*PH) ZBR Chapter Rewrite aims to reach the full jurisdictional extent of the state of Idaho's authority for taxes imposed on providing accommodations. Comment by 10/16/25

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION
PO Box 83720, Boise, ID 83720-0035

38-0404-2501, Rules Governing Capitol Mall Parking. ZBR Chapter Rewrite provides enforceable guidelines for the safe and equitable operation of the parking facilities on the capitol mall.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N Hilton St, Boise, ID 83706

58-0101-2501, Rules for the Control of Air Pollution in Idaho. (*PH) To maintain consistency, this rulemaking updates federal regulations incorporated by reference necessary to retain state primacy of Clean Air Act programs. Comment by 10/3/25

58-0108-2501, Idaho Rules for Public Drinking Water Systems. Rule changes update incorporations by reference of the federal Consumer Confidence Report Rule and the Lead and Copper Rule, as well as make nonsubstantive revisions for clarity and ease of use. Comment by 10/1/25

58-0111-2501, Ground Water Quality Rule. ZBR Chapter Rewrite establishes minimum requirements for protection of ground water quality through standards and an aquifer categorization process and serves as a basis for the administration of programs which address ground water quality.

58-0112-2501, Rules for Administration of Wastewater and Drinking Water Loan Funds. ZBR Chapter Rewrite provides administrative procedures and requirements for establishing, implementing, and administering a state loan program for providing financial assistance to eligible applicants of water pollution control projects and qualifying entities of public water system facilities.

58-0116-2501, Wastewater Rules. (*PH) ZBR Chapter Rewrite establishes the procedures and requirements for the planning, design, and operation of wastewater facilities and the discharge of wastewaters and human activities which may adversely affect public health and water quality in the waters of the state. Comment by 10/1/25

EXECUTIVE ORDER OF THE GOVERNOR

2025-05, The Idaho Act

NOTICE OF PUBLIC HEARING AND EXTENSION OF WRITTEN COMMENT PERIOD

(Please see the Administrative Bulletin for date(s) and time(s) of meeting(s) and other participant information)

IDAPA 15 – OFFICE OF THE GOVERNOR / IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

15-0230-2401, Business Enterprise Program. (*PH) Comment by 9/24/25

Please refer to the Idaho Administrative Bulletin **September 3, 2025, Volume 25-9**, 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.

***Electronic issues of the Idaho Administrative Bulletin can be viewed at* www.adminrules.idaho.gov/**

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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

April 4, 2025 – September 3, 2025

(PLR 2026) – Final Effective Date Is Pending Legislative Review in 2026
(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

02.01.03, Airborne Control of Unprotected or Predatory Animals Rules
02-0103-2501 *Notice of Intent to Promulgate Rules–Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5 (terminated)*

02.01.05, Rules Governing Certificates of Free Sale
02-0105-2501 *Notice of Intent to Promulgate Rules–Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5 (terminated)*

02.01.08, Rules Governing Grizzly Bear and Wolf Depredation
02-0108-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking (New Chapter), Bulletin Vol. 25-5

02-0108-2401 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 11-12-24)T
02-0108-2401 Adoption of Temporary Rule, Bulletin Vol. 24-12 (eff. 11-12-24)T

02.02.05, Rules Governing Stone Fruit Grades
02-0205-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.02.07, Rules Governing Bulk Permits and Retail Sale of Potatoes
02-0207-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.02.11, Rules Governing Eggs and Egg Products
02-0211-2501 *Notice of Intent to Promulgate Rules–Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5 (terminated)*

02.02.14, Rules for Weights and Measures
02-0214-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.03.03, Rules Governing Pesticide and Chemigation Use and Application
02-0303-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-7

02.04.20, Rules Governing Brucellosis
02-0420-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.04.24, Rules Governing Tuberculosis
02-0424-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.04.26, Rules Governing the Public Exchange of Livestock
02-0426-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.06.01, Rules Governing the Production and Distribution of Seed
02-0601-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.06.06, Rules Governing the Planting of Beans
02-0606-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-7

02.06.09, Rules Governing Invasive Species and Noxious Weeds
02-0609-2406 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 11-9-24)T
02-0609-2406 Adoption of Temporary Rule, Bulletin Vol. 24-12 (eff. 11-9-24)T

02-0609-2405 *Adoption of Temporary Rule, Bulletin Vol. 24-11 (eff. 10-7-24)T* ***[superseded]***

02-0609-2404 *Adoption of Temporary Rule, Bulletin Vol. 24-10 (eff. 9-26-24)T* ***[superseded]***

02-0609-2403 *Adoption of Temporary Rule, Bulletin Vol. 24-8 (eff. 6-28-24)T* ***[superseded]***

02-0609-2401 *Adoption of Temporary Rule, Bulletin Vol. 24-4 (eff.* ***sine die*** *2024)T* ***[superseded]***

02.06.33, Organic Food Products Rules
02-0633-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-7

02.07.01, Rules of the Idaho Hop Growers' Commission
02-0701-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

IDAPA 08 – IDAHO STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION

08.01.13, Rules Governing the Opportunity Scholarship Program
08-0113-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-6 (rulemaking terminated by agency)

08.01.15, Rules Governing the Firearms Safety Grant Program
08-0115-2401 Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 24-6

08.02.02, Rules Governing Uniformity
08-0202-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-6

08.02.03, Rules Governing Thoroughness
08-0203-2502 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-6

08-0203-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-6

08.02.05, Rules Governing Pay for Success Contracting
08-0205-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-6

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09.05.03, Rules for Determining Bargaining Representatives
09-0503-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

IDAPA 11 – IDAHO STATE POLICE

Alcohol Beverage Control Bureau

11.05.01, Rules Governing Alcohol Beverage Control
11-0501-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-7

11.06.01, Rules Governing Civil Asset Forfeiture Reporting
11-0601-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
11-0601-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-6

11.10.01, Rules Governing Idaho Public Safety and Security Information System
11-1001-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
11-1001-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-6

11.10.02, Rules Governing State Criminal History Records and Crime Information
11-1002-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
11-1002-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-6

11.10.03, Rules Governing the Sex Offender Registry
11-1003-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
11-1003-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-6

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho
13-0000-2500P5 Notice of Adopted / Amended Proclamations for Calendar Year 2025, Bulletin Vol. 25-8
13-0000-2500P4 Notice of Adopted / Amended Proclamations for Calendar Year 2025, Bulletin Vol. 25-7
13-0000-2500P3 Notice of Adopted / Amended Proclamations for Calendar Year 2025, Bulletin Vol. 25-6
13-0000-2500P2 Notice of Adopted / Amended Proclamations for Calendar Year 2025, Bulletin Vol. 25-5
13-0000-2500P1 Notice of Adoption of Proclamation for Calendar Year 2025, Bulletin Vol. 25-2

13.01.03, Public Use of Lands Owned or Controlled by the Department of Fish and Game
13-0103-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

13.01.04, Rules Governing Licensing

13-0104-2501 Adoption of Temporary Rule, Bulletin Vol. 25-6 (eff. 5-22-25)T

13-0104-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

13.01.08, Rules Governing Taking of Big Game Animals

13-0108-2501 Adoption of Temporary Rule, Bulletin Vol. 25-5 (eff. 4-15-25)T

13-0108-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

13.01.16, Trapping of Wildlife and Taking of Furbearing Animals

13-0116-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

13.01.17, Rules Governing Use of Bait for Hunting Big Game Animals

13-0117-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-5

13.01.19, Rules for Selecting, Operating, Discontinuing, and Suspending Vendors

13-0119-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

IDAPA 15 – OFFICE OF THE GOVERNOR

Executive Orders of the Governor

Executive Order No. **2025-05** The Idaho Act, Bulletin Vol. 25-9
Executive Order No. **2025-04** Make Forests Healthy Again Act, Bulletin Vol. 25-5
Executive Order No. **2025-03** Border Security and Immigration Enforcement Act, Bulletin Vol. 25-3
Executive Order No. **2025-02** Idaho Strategic Permitting, Efficiency and Economic Development (SPEED) Act, Bulletin Vol. 25-2
Executive Order No. **2025-01** Gone With the Lava Ridge Wind Project Act, Bulletin Vol. 25-2

Idaho Commission On Aging

15.01.01, Rules Governing Senior Services Program

15-0101-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-7

15.01.03, Rules Governing Ombudsman for the Elderly Program

15-0103-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-7

15.01.20, Rules Governing Area Agency on Aging (AAA) Operations

15-0120-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-7

Idaho Commission for the Blind and Visually Impaired

15.02.30, Business Enterprise Program

15-0230-2401 Notice of Public Hearing and Extension of Written Comment Period, Bulletin Vol. 25-9
15-0230-2401 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 24-11
15-0230-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-9

Idaho Forest Products Commission

15.03.01, Rules of Administrative Procedure of the Idaho Forest Products Commission

15-0301-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

Idaho Military Division – Idaho Public Safety Communications Commission

15.06.01, Rules Governing the Idaho Public Safety Communications Commission

15-0601-2501 Notice of Temporary and Proposed Rule, Bulletin Vol. 25-5 (eff. 5-1-25)T

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.10, Idaho Reportable Diseases

16-0210-2501 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 25-8 (PLR 2026)
16-0210-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-6
16-0210-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

16.02.27, Idaho Radiation Control Rules

16-0227-2501 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 25-8 (PLR 2026)
16-0227-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-6
16-0227-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

16.03.08, Temporary Assistance for Families in Idaho (TAFI) Program

16-0308-2501 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 25-7
16-0308-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

16.03.08, Federal Welfare Programs

16-0308-2502 Notice of Proposed Rulemaking (ZBR New Chapter), Bulletin Vol. 25-7

(Rule Revoked) *16.03.10, Medicaid Enhanced Plan Benefits*

16-0000-2500 *Notice of Omnibus Rulemaking – Revocation of Final Rules – Certain provisions rendered null and void pertaining to IDAPA chapter 16.03.10 – Bulletin Vol. 25-7*

16-0310-2501* *Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4*
**Negotiations terminated under this docket and moved under docket 16-0326-2501*

16.03.13, Consumer-Directed Services

16-0313-2501 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 25-9

16.03.21, Developmental Disabilities Agencies (DDA)

16-0321-2501* Adoption of Pending Rule (Chapter Rewrite), Bulletin Vol. 25-8 (PLR 2026)
**Changes chapter name from: "Developmental Disabilities Agencies (DDA)"*
16-0321-2501* Notice of Proposed Rulemaking (Chapter Rewrite), Bulletin Vol. 25-6

16.03.22, Residential Assisted Living Facilities

16-0322-2501 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 25-8 (PLR 2026)
16-0322-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-6
16-0322-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

16.03.26, Medicaid Plan Benefits

16-0326-2501 Notice of Temporary and Proposed Rule (New Chapter), Bulletin Vol. 25-6 (eff. 7-1-25)T

16.04.14, Low-Income Home Energy Assistance Program (LIHEAP)

16-0414-2501 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 25-9 (PLR 2026)
16-0414-2501 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 25-7

16.04.17, Residential Habilitation Agencies

16-0417-2501 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 25-9 (PLR 2026)
16-0417-2501 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 25-6
16-0417-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

16.05.01, Use and Disclosure of Department Records

16-0501-2501 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 25-8 (PLR 2026)
16-0501-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-6
16-0501-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

16.06.02, Foster Care Licensing

16-0602-2501 Adoption of Pending Rule, Bulletin Vol. 25-9 (PLR 2026)
16-0602-2501 Notice of Temporary and Proposed Rule, Bulletin Vol. 25-7 (eff. 7-1-25)T

16.06.03, Daycare Licensing

16-0603-2501* Adoption of Pending Rule (Chapter Rewrite), Bulletin Vol. 25-9 (PLR 2026)
**Renames chapter from: "Daycare Licensing"*

16-0603-2501* Notice of Proposed Rulemaking (Chapter Rewrite), Bulletin Vol. 25-7

16.06.12, Idaho Child Care Program (ICCP)

16-0612-2501 Adoption of Pending Rule (ZBR Chapter Repeal), Bulletin Vol. 25-9 (PLR 2026)
16-0612-2501 Notice of Proposed Rulemaking (ZBR Chapter Repeal), Bulletin Vol. 25-7
16-0612-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

16.06.13, Emergency Assistance for Families and Children

16-0613-2501 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 25-9 (PLR 2026)
16-0613-2501 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 25-7

IDAPA 18 – DEPARTMENT OF INSURANCE

18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapters 05, 06, 11-15; & Title 06, Chapter 05 – Bulletin Vol. 25-5

18.03.03, Variable Contracts

18-ZBRR-2401 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 03 – Bulletin Vol. 24-7

18.03.04, Replacement of Life Insurance and Annuities

18-ZBRR-2401 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 04 – Bulletin Vol. 24-7

18.04.03, Advertisement of Disability (Accident and Sickness) Insurance

18-ZBRR-2401 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 03 – Bulletin Vol. 24-7

18.04.05, Self-Funded Health Care Plans Rule

18-0405-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 05 – Bulletin Vol. 25-5

18.04.06, Governmental Self-Funded Employee Health Care Plans Rule

18-0406-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 06 – Bulletin Vol. 25-5

18.04.11, Long-Term Care Insurance Minimum Standards

18-0411-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 11 – Bulletin Vol. 25-5

18.04.12, The Small Employer Health Insurance and Availability Act

18-0412-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 12 – Bulletin Vol. 25-5

18.04.13, The Individual Health Insurance Availability Act

18-0413-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 13 – Bulletin Vol. 25-5

18.04.14, Coordination of Benefits

18-0414-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 14 – Bulletin Vol. 25-5

18.04.15, Rules Governing Short-Term Health Insurance Coverage

18-0415-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 15 – Bulletin Vol. 25-5

18-0415-2401 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 24-7

18.06.05, Managing General Agents

18-0605-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8

18-ZBRR-2501 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 05 – Bulletin Vol. 25-5

18.07.04, Annual Financial Reporting

18-ZBRR-2401 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 04 – Bulletin Vol. 24-7

18.07.05, Director's Authority for Companies Deemed to be in Hazardous Financial Condition

18-ZBRR-2401 ***Rules of the Idaho Department of Insurance*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 05 – Bulletin Vol. 24-7

IDAPA 20 – DEPARTMENT OF LANDS

20.03.02, Rules Governing Mined Land Reclamation

20-0302-2401 (2nd) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

20-0302-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

20-0304-2401* Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-9

**Renames chapter from: "Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho"*

20-0304-2401 (2nd) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

20-0304-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-4

20.03.08, Easements on State Owned Lands

20-0308-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-3

20-0308-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8

IDAPA 21 – DIVISION OF VETERANS SERVICES

21.01.01, Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure

21-0101-2501 Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 25-8 (PLR 2026)

21-0101-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-7

21-0101-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.02.01, Rules of the State Athletic Commission

24-0201-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-8

24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals

24-0501-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-8

24.06.01, Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants

24-0601-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-5

24.13.01, Rules Governing the Physical Therapy Licensure Board

24-1301-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-5

24.17.01, Rules of the State Board of Acupuncture

24-1701-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-5

24.21.01, Rules of the Idaho State Contractors Board

24-2101-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-5

24.22.01, Rules of the Idaho State Liquefied Petroleum Gas Safety Board

24-2201-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-5

24.23.01, Rules of the Speech, Hearing and Communication Services Licensure Board

24-2301-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-8

24.26.01, Rules of the Idaho Board of Midwifery

24-2601-2501 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 1-1-25)T
24-2601-2501 Adoption of Temporary Rule, Bulletin Vol. 25-1 (eff. 1-1-25)T

24.28.01, Rules of the Barber and Cosmetology Services Licensing Board

24-2801-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-5

24.31.01, Rules of the Idaho State Board of Dentistry

24-3101-2501 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 1-1-25)T
24-3101-2501 Adoption of Temporary Rule, Bulletin Vol. 25-1 (eff. 1-1-25)T

24.32.01, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

24-3201-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-8

24.34.01, Rules of the Idaho Board of Nursing

24-3401-2501 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 1-1-25)T
24-3401-2501 Adoption of Temporary Rule, Bulletin Vol. 25-1 (eff. 1-1-25)T

24.35.01, Rules of the Outfitters and Guides Licensing Board

24-3501-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-8

24.38.01, Rules of the State of Idaho Board of Veterinary Medicine

24-3801-2501 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 1-1-25)T
24-3801-2501 Adoption of Temporary Rule, Bulletin Vol. 25-1 (eff. 1-1-25)T

24.39.30, Rules of Building Safety (Building Code Rules)

24-3930-2502 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-8

24-3930-2501 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 1-1-25)T
24-3930-2501 Adoption of Temporary Rule, Bulletin Vol. 25-1 (eff. 1-1-25)T

24.39.31, Rules for Factory Built Structures

24-3931-2501 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 1-1-25)T
24-3931-2501 Adoption of Temporary Rule, Bulletin Vol. 25-1 (eff. 1-1-25)T

24.39.50, Rules of the Public Works Contractors License Board

24-3950-2501 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 1-1-25)T
24-3950-2501 Adoption of Temporary Rule, Bulletin Vol. 25-1 (eff. 1-1-25)T

24.41.01, Rules of the Long-Term Care Administrators Board

24-4101-2501 Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 25-8

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities

26-0120-2501 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 25-9
26-0120-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

26.01.21, Rules Governing Leasing Practices & Procedures for Recreational Residences Within Heyburn State Park

26-0121-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 25-5 (terminated)

IDAPA 28 – DEPARTMENT OF COMMERCE

28.02.03, Department of Commerce Grant Program Rules

28-0203-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-7

28.04.01, Rules Governing the Idaho Reimbursement Incentive Act

28-0401-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-7

IDAPA 31 – PUBLIC UTILITIES COMMISSION

31.27.01, Rules Governing Pole Attachments

31-2701-2501 Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 25-8

IDAPA 34 – SECRETARY OF STATE

34.03.01, Rules Implementing the Sunshine Law

34-0301-2501 Notice of Proposed Rulemaking, Bulletin Vol. 25-6

IDAPA 35 – STATE TAX COMMISSION

35.01.02, Idaho Sales and Use Tax Administrative Rules

35-0102-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-9
35-0102-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

35.01.06, Hotel/Motel Room and Campground Sales Tax Administrative Rules

35-0106-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-9
35-0106-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

IDAPA 37 – DEPARTMENT OF WATER RESOURCES

37.02.04, Shoshone-Bannock Tribal Water Supply Bank Rules

37-0204-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

37.03.07, Stream Channel Alteration Rules

37-0307-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

37.03.12, Idaho Department of Water Resources Water Distribution Rules - Water District 34

37-0312-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION

38.04.04, Rules Governing Capitol Mall Parking

38-0404-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-9
38-0404-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39-ZBRR-2501 ***Rules of the Idaho Transportation Department*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 60; and Title 03, Chapter 49 – Bulletin Vol. 25-5

39.02.60, Rules Governing License Plate Provisions

39-ZBRR-2501 ***Rules of the Idaho Transportation Department*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 60 – Bulletin Vol. 25-5

39.03.49, Rules Governing Ignition Interlock Breath Alcohol Devices

39-ZBRR-2501 ***Rules of the Idaho Transportation Department*** – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 49 – Bulletin Vol. 25-5

IDAPA 42 – IDAHO WHEAT COMMISSION

42.01.01, Rules of the Idaho Wheat Commission

42-0101-2401 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 24-8

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION

52.01.03, Rules Governing Operations of the Idaho State Lottery

52-0103-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
52-0103-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55.01.03, Rules of Career Technical Centers

55-0103-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-6

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD

57.01.01, Rules of the Sexual Offender Management Board

57-0101-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-4

57-0101-2502 Adoption of Temporary Rule, Bulletin Vol. 25-4 (eff. 2-14-25)T

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

TMDLs:

58-0000-2501 Notice of Final Decision, Willow Creek 2024 Total Maximum Daily Loads (TMDLs) (HUC 17040205), Bulletin Vol. 25-4

58.01.01, Rules for the Control of Air Pollution in Idaho

58-0101-2501 Notice of Proposed Rulemaking, Bulletin Vol. 25-9

58.01.02, Water Quality Standards

58-0102-2501 Notice of Proposed Rulemaking, Bulletin Vol. 25-7

58.01.05, Rules and Standards for Hazardous Waste

58-0105-2501 Notice of Proposed Rulemaking, Bulletin Vol. 25-8

58.01.06, Solid Waste Management Rules

58-0106-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-8
58-0106-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-3

58.01.08, Idaho Rules for Public Drinking Water Systems

58-0108-2501 Notice of Proposed Rulemaking, Bulletin Vol. 25-9

58-0108-2502 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-8

58.01.11, Ground Water Quality Rule

58-0111-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-9
58-0111-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-3

58.01.12, Rules for Administration of Wastewater and Drinking Water Loan Funds

58-0112-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-9
58-0112-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4

58.01.13, Rules for Ore Processing by Cyanidation

58-0113-2501 Notice of Temporary and Proposed Rule, Bulletin Vol. 25-7 (eff. 7-1-25)T

58.01.16, Wastewater Rules

58-0116-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-9
58-0116-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-3

IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS

62.01.01, Idaho Rules of Administrative Procedure

62-0101-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-6

Subject Index

A

Abbreviations, IDAPA 20.03.04 38
ATON 38
HDPE 38
O/AHWM 38
Aboveground, Open Pit, Mining 139
Exempt Purchases 139
Exemption Certificate 140
Taxable Purchases 140
Accommodations Tax 194
In General 194
Accounting & Auditing Procedures 301
Additional Design Criteria For Surface Water Treatment 252
Acceptable Technology 253
Continuous Monitoring of Disinfectant 253
Continuous Operation Required 253
Continuous Turbidity Monitoring 253
Disinfection 252
Engineering Design Requirements 252
Enhanced Disinfection 252
Filter to Waste 252
Pilot Studies 253
Redundant Disinfection 254
Removal of Pathogens 252
Additions & Penalties 180
Repeated or Intentional Invalid Exemption Claims 181
Substantial Underpayment 180
Administrative Appeals 34, 65, 193, 262, 281
Administrative Provisions 305
Admissions 86
Rental of Tangible Personal Property 87
Admissions Defined
Admissions 86
Advisory Group 259
Aircraft & Flying Services 90
Aerial Contracting Services 92
Air Ambulance Service 93
Aircraft Held for Resale 93
Definitions 90
Federal Law Prohibits States From Taxing Sales of Air Transportation 92
Flying Instructions 93
Fuel 93
Recreational Flights 93
Rentals & Leases of Aircraft 92
Sales of Aircraft 92
Sales of Aircraft Repair Parts to Nonresidents 92
Airlines, Buses, & Railway Dining Cars 75
Allowable Child Care Costs 30
One-Time Registration Fees 30
Payment for Employment, Training, Education, or Preventive Service Hours 30
Amusement Devices 170
Cross-Reference 171
Examples 171
Other Operated Amusement Machines or Games 171
Requirement to Obtain Permit 170
Application & Payment Of Use Tax 128
Examples 130
Imposition of Use Tax 128
Out-of-State Purchases 129
Receipt Showing Idaho Sales Tax Paid 129
Removal from This State 129
Specifically Excluded From the Definition of Both Use & Storage Are 129
Storage 129
Tangible Personal Property Removed From Inventory 129
Taxes Paid to Another State 129
Use 128
Use Undeterminable at Time of Purchase 129
Application For Daycare License Or Renewal 23
Additional Requirements for License Renewal 24
Background Clearance 24
Completed Licensing Application 23
Health & Safety Inspection 24
Inspection Reports 23
Licensing Fee 23
Other Information as Requested 24
Proof of Insurance 24
Relicense 24
Statement Disclosing Revocation or Disciplinary Actions 24
Statement to Comply 24
Applications 46
Encroachment Applications 46
Other Permits 47
Repairs, Reinstallation of Structures 47
Signature Requirement 47
Assignments 53
Approval Required for Assignment 54
Assignment Application 53
Assignment With New Permit 54
Encroachment Permit Assignment 53
Auctioneer, Agent, Broker, Distributor & Factors 76
Authority Conferrable On Employees - Enforcement 60

B

Background Check Requirements 22
Background Check Frequency 23
Background Check Requirements 22
Compliance 22
Cost of Background Check & Juvenile Justice Records 23
Family Daycare Homes 23
Juvenile Justice Records 23
Private Schools & Private Kindergartens 23
Reporting Convictions 23
Bad Debts & Repossessions 121
Amount of Credit Allowed 122
Application to Taxpayers 121
Bad Debt Collected Later 123
Cross-Reference 123
In General 121
Rules for Secured Credit Sales 121
Rules for Unsecured Credit Sales 121
To Claim Credit for a Bad Debt 123
Bonding 176
Amount of Security 176
Forms of Security 177
Posting Security 176
Release of Security 177
Written Demand 176
Boy Scout, Girl Scout & 4-H Group Sales & Purchases 147
Purchases by Scout & 4-H Groups 147
Sales by Scout & 4-H Groups 147
Buildings, Grounds, Furnishings, & Equipment 28
Appliances & Electrical Cords 28
Balconies & Stairways 28
Fueled Equipment 28
Hazardous Area Restrictions 28
Indoor Play Areas & Toys 28
Outdoor Play Areas & Toys 28
Stairway Protection 28
Water Hazards 28
Bullion, Coins, or Other Currency 94
Jewelry or Other Works of Art 94
Sales & Purchases of Bullion 94

C

Categorized Aquifers Of The State 271
General Resource 271
Other Resource 271
Sensitive Resource 271
Certificates For Resale & Other Exemption Claims 181
Burden of Proof 182
Description and Proper Execution of Approved Forms 182
Form ST-101, Sales Tax Resale and Exemption Certificate -- Claiming Exemptions 183
Form ST-101, Sales Tax Resale or Exemption Certificate -- Buying for Resale 182

Form ST-102, Use Tax Exemption Certificate -- New Resident 186
Form ST-104G, Sales Tax Exemption Claim for Cash Purchases by Governmental Agencies 186
Form ST-104HM, Sales Tax Exemption Certificate -- Lodging Accommodations 186
Form ST-104IC, Sales Tax Exemption Certificate – Interstate Commerce Vehicles 186
Form ST-104NR, Sales Tax Exemption Certificate – Vehicle/Vessel 186
Form ST-108TR, Occasional Sale Exemption Claim -- Office Trailer and Transport Trailer 186
Form ST-111, Sales Tax Exemption Claim Form -- Grocer 186
Form ST-133, Sales Tax Exemption Certificate -- Family or American Indian Sales 186
Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit 186
Form ST-133GT, Use Tax Exemption Certificate -- Gift Transfer Affidavit 187
In General 181
Tax Exemption Statements 185
The Diplomatic Tax Exemption Program 187
Timely Acceptance of Certificates 187
Classification Of Community Wastewater Systems 317
Classification 317
Classification Criteria 318
Classification Of Water Systems 228, 258
Classification Criteria 229, 259
Classification Review 229, 259
System Classification Required 228, 258
Coatings On Tangible Personal Property 102
Coatings are Tangible Personal Property 102
Coatings Generally 102
Examples 103
Exemptions 103
Material Charges 102
Nontaxable Labor Charges 102
Separate Statement 102
Tangible Personal Property Held for Resale 103
Taxable Labor Charges 102
Used Tangible Personal Property 102
Coliform Treatment Technique Triggers & Assessment Requirements For Protection Against Potential Fecal Contamination 243
Approved Parties for Level 2 Assessments 244
Requirements For Assessments 243
Collection & Enforcement 181
Collection Of Tax 126
Bracket System for Six Percent Tax Rate 126
Computation of Tax 126
Examples 127
In General 126
Reimbursement of Tax From the Buyer to the Seller 126
Sales Tax to Be Collected by Retailer 126
Tax Rate 126
Tax to Be Separately Displayed 126
Commercial Navigational Encroachment 35
Community Wastewater System Operator Licensure Requirements 318
System Operator Licensure Requirement 318
Wastewater System Operator Licensure Exceptions 318
Community Water System 222
Composite Correction Program (CCP) 243
Comprehensive Performance Evaluation (CPE) 243
Comprehensive Technical Assistance (CTA) 243
Computer Equipment, Software, & Data Services 81
Canned Software 82
Cloud or Remote Data Storage 84
Computer Hardware 82
Custom Software 84
Definitions 81
Digital Products 83
Digital Subscriptions 83
Maintenance Contracts 82
Purchases for Resale 85
Remotely Accessed Computer Software 82
Reports Compiled by a Computer 83
Training Services 84
Confidentiality 281
Confidentiality Of Records 305
Consumer Confidence Report 236
Containers - Returnable - Nonreturnable 142
Container 142
Containers Exempt from Tax 142
Examples 143
Supplies 142
Taxable Containers 142
Contracting For Services 228, 259, 319
Contractor's Use Of Tangible Personal Property 124
Contractors Use of Tangible Personal Property 124
Exception 124
Use 124
Contractors Improving Real Property 67
Contract 68
Cross-References 70
Custom-Made Goods 68
Examples 70
Exempt Purchases by Contractors 69
Fuels 68
In General 67
Land Leveling 69
Materials Provided by Project Owner 69
Materials Purchased on Behalf of Project Owner 69
Purchases by Contractors 68
Real Property 68
Subcontractor 69
Use 68
Use Tax Reporting Number 68
Value 68
Contractors/Retailers 72
Contractor/Retailer 72
Examples 73
In General 72
Inventory Withdrawals 73
Record Keeping 72
Sales of Both Tangible Personal Property & Improvements to Real Property 72
Sales with Agreement to Install 72
Tangible Personal Property vs. Improvements to Real Property 72
Control Of Lead & Copper 234, 246
Control Of Per- And Polyfluoroalkyl Substances (PFAS) 238, 246
Criteria For Individual Campsite, Camping Cabin, & Yurt Reservations
Park or Program Manager Authority 60

D

Deficiencies, Collections, & Enforcement 197
Cross Reference 198
Penalties 198
Remittance of Taxes 198
Definitions 21, 35
Adjacent 35
Aids to Navigation 35
Artificial High Water Mark 35
Beds of Navigable Lakes 35
Board 35
Boat Garage 35
Boat Lift 35

Boat Ramp 35
Breakwater 35
Commercial Marina 35
Commercial Navigational Encroachment 35
Community Docks 35
Covered Slip 35
Department 36
Director 36
Dredging 36
Earned Income 21
Encroachments in Aid of Navigation 36
Encroachments Not in Aid of Navigation 36
Float Home 36
Floating Toys 36
Foster Care 22
Foster Child 22
Good Cause 22
Incapacitated Parent 22
Jet Ski Ramp, Port, or Lift 36
Legal Guardian 22
Line of Navigability 36
Littoral Owner 36
Littoral Right Lines 36
Low Water Mark 36
Marine Motor Fuel-Dispensing Facility 36
Moorage 36
Natural or Ordinary High Water Mark 36
Navigable Lake 37
Online Classes 22
Parent 22
Party 37
Person 37
Piling 37
Plan of Correction 22
Plans 37
Public Hearing 37
Public Trust Doctrine 37
Pylon 37
Regularly on the Premises 22
Relative Provider 22
Residential Area 37
Riparian or Littoral Owner 37
Riparian or Littoral Right Lines 37
Riparian or Littoral Rights 37
Seawall 38
Side Tie 37
Single-Family Dock 38
Slip 38
Special Needs 22
Submerged Lands 38
Two-Family Dock 38
Unearned Income 22
Upland 38
Water Line 38
Definitions, IDAPA 35.01.06 194
Campground 194
Hotel or Motel 194
Definitions, IDAPA 38.04.04 200
Capitol Mall 200
Capitol Mall Employee 200
Carpool 200
Employee with a Disability 200
Executive Branch Departments 200
General Parking 200
Legislative Personnel 200
Legislator 200
Reserved Parking 200
Security Services 200
State Elected Officials 200
Temporary Contract Employee 201
Visitor 201
Definitions, IDAPA 58.01.08 216
Aquifer 216
Backflow 216
Capacity 217
Components of Finished Water Storage 217
Composite Correction Program (CCP) 218
Confining Layer 218
Consumer 218
Consumer Confidence Report (CCR) 218
Cross Connection 218
Dead End Main 218
Direct Integrity Test (DIT) 218
Drinking Water System 218
Effective Contact Time 218
Equivalent Dwelling Unit (EDU) 218
Exemption 218
Facility Plan 219
Filtrate 219
Finished Water Storage Structures or Facilities 219
Fire Flow Capacity 219
Fire Suppression Storage 219
Fixture Protection 219
Flux 219
Health Hazards 219
Indirect Integrity Monitoring 219
Inorganic 219
Internal or In-Plant Isolation 219
Like-Kind Replacement 220
Log 220
Log Removal Value (LRV) 220
Material Deviation 220
Material Modification 220
Maximum Pumping Capacity 220
Membrane Unit 220
Microfiltration (MF) 220
Module 220
Nanofiltration (NF) 220
New System 220
Non-Potable Fluids 220
Non-Potable Mains 220
Non-Potable Services or Lines 220
Operating Shift 221
Operation & Maintenance Manual 221
Operational Storage 221
Operations Plan 221
Owner/Purveyor of Water/Supplier of Water 221
Plant 221
Plant Design Capacity 221
Point of Use (POU) Treatment System 221
Potable Mains 221
Potable Services 221
Potable Water 221
Preliminary Engineering Report 221
Premises Isolation or Containment 221
Protected Water Source 222
Public Drinking Water System (PWS) 222
Public Notice 222
Public Water System/Water System/System 222
Pump House 222
Qualified Licensed Professional Engineer (QLPE) 222
Quasi-Municipal Corporation 222
Raw Water 222
Redundancy 222
Resolution 223
Reverse Osmosis (RO) 223
Reviewing Authority 223
Sampling Point 223
Sensitivity 223
Service Connection 223
Sewage 223
Significant Deficiency 223
Simple Water Main Extension 223
Spring 223
Standby Storage 223
Substantially Modified 223
Substitute Responsible Charge Operator 223
Surface Water System 223
Treatment Facility 224
Turbidity 224
Ultrafiltration (UF) 224
Unregulated Contaminant 224
Use Assessment 224
UV Transmittance (UVT) 224
Variance 224
Volatile Organic Chemicals (VOCS) 224
Vulnerability Assessment 224
Waiver 224
Wastewater 224
Water Demand 224
Water Main 225
Definitions, IDAPA 58.01.11 263
Agricultural Chemical 263
Aquifer 263
Beneficial Uses 263
Best Available Method 263

Best Management Practice 263
Best Practical Method 263
Board 263
Cleanup 263
Constituent 263
Contaminant 263
Contamination 263
Crop Root Zone 263
Degradation 263
Department 263
Extraction 264
Ground Water 264
GroundWater Quality Standard 264
Highly Vulnerable Groundwater 264
Irreplaceable Source 264
Mine Operator 264
Mining Activity 264
Mining Area 264
Natural Background Level 264
Person 264
Point of Compliance 264
Practical Quantitation Level 264
Projected Future Beneficial Uses 264
Recharge Area 264
Reclamation 265
Remediation 265
Site Background Level 265
Definitions, IDAPA 58.01.12 281
Affordability 281
Annual User Rate 281
Applicant 281
Best Management Practice 282
Board 282
Categorical Exclusion (CE) 282
Close or Closing 282
Collector Sewer 282
Community Water System 282
Construction 282
Contaminant 282
Department 282
Director 282
Disadvantaged Community 282
Disadvantaged Loans 282
Distribution System 282
Eligible Costs 282
Environmental Impact Statement (EIS) 283
Environmental Information Document (EID) 283
Financial Management System 283
Finding of No Significant Impact (FONSI) 283
Handbook 283
Implementation Plan 283
Ineligible Costs 283
Interceptor Sewer 283
Loan Recipient 283
Managerial Capability 283
Maximum Contaminant Level (MCL) 283
Noncommunity Water System 283
Nondomestic Wastewater 283
Nonpoint Source Pollution 283
Nonpoint Source Project Sponsor 283
Operation & Maintenance Manual 284
Plan of Operation 284
Planning Document 284
Point Source 284
Pollutant 284
Priority List 284
Public Drinking Water System/ Public Water System/Water System 284
Rehabilitation 284
Reserve Capacity 284
Sewer Use Ordinance/Sewer Use Resolution 284
State 284
Supplemental Grants 285
Suspension 285
Sustainability 285
Termination 285
User Charge System 285
Wastewater 285
Wastewater Treatment Facility 285
Water Pollution Control Project 285
Water System Protection Ordinance 285
Definitions, IDAPA 58.01.16 307
Adequate Emergency Storage Capacity 307
Available 307
Average Day Flow 307
Beneficial Use 307
Biochemical Oxygen Demand (BOD) 307
Blackwaste 308
Blackwater 308
Board 308
Buildout 308
Capacity 308
Class A Recycled Water 308
Class A Recycled Water Distribution System 308
Collection System 308
Community Wastewater System 312
Compliance Schedule or Compliance Agreement Schedule 309
Department 309
Design Flow 309
Designated Beneficial Use or Designated Use 309
Director 309
Discharge 309
Disinfection 309
Disposal 309
Disposal Facility 309
Effluent 309
Environmental Review 309
EPA, The United States Environmental Protection Agency 309
Equivalent Dwelling Unit (EDU) 309
Facility & Design Standards 309
Facility Plan 309
Force Main 310
Geometric Mean 310
Gray Water 310
Ground Water 310
Industrial Wastewater 310
Land Application 310
License 310
Major Wastewater Collection System Project 310
Material Deviation 310
Material Modification 310
Maximum Day Flow 310
Maximum Month Flow 310
Mixing Zone 310
Municipal Wastewater 311
National Pollutant Discharge Elimination System (NPDES) 311
Natural Background Conditions 311
Non-Contact Cooling Water 311
Non-Potable Mains 311
Non-Potable Services 311
Nuisance 311
Nutrients 311
Operating Personnel 311
Owner 311
Peak Hour Flow 311
Peak Instantaneous Flow 311
Person 311
Point Source 312
Pollutant 312
Potable Mains 312
Potable Service 312
Potable Water 312
Preliminary Engineering Report (PER) 312
Primary Treatment 312
Private Wastewater Treatment Plant 312
Qualified Licensed Professional Engineer (QLPE) 312
Quasi-Municipal Corporation 313
Reasonably Accessible 313
Receiving Waters 313
Recharge 313
Recharge Water 313
Redundancy 313
Reliability 313
Responsible Charge (RC) 313
Responsible Charge Operator 313
Reuse 313
Reviewing Authority 314
Sanitary Sewer Extension 314

Secondary Treatment 314
Septage 314
Septage Transfer Station 314
Service Connection 314
Sewage 314
Simple Wastewater Main Extension 314
Sludge 314
Special Resource Water 314
State 314
Substitute Responsible Charge Operator 314
Surface Water Body 315
Total Containment Lagoon 315
Total Maximum Daily Load (TMDL) 315
Treatment 315
Treatment Facility 315
User 315
Very Small Wastewater System 315
Wastewater 315
Wastewater Flows 315
Wastewater Lagoon 316
Wastewater Pipelines 316
Wastewater Pumping Station 316
Wastewater System 316
Wastewater System Operator 316
Water Main Extension 316
Water Pollution 316
Waters & Waters of the State 316
Watershed 316
Definitions, IDAPA 58.01.22
Nonprofit Noncommunity Water System 283
Demonstration Of Technical, Financial, & Managerial Capacity 323
Consolidation 324
Financial Capacity 323
Managerial Capacity 324
Technical Capacity 323
Design 368
Determination Of Eligibility Of Costs 295
Eligible Costs 295
Eligible Costs & the Loan Offer 297
Examples of Costs That May Be Eligible 296
Ineligible Project Costs 297
Necessary Costs 296
Notification Regarding Ineligible Costs 297
Reasonable Costs 296
Dining on Airlines, Buses, & Rail Transportation 75
Formula for Taxable Sales 75
Meals, Snacks, Beverages or Other Tangible Personal Property 75
Sale of Meals 75
Taxable Sales 75
Direct Pay Authority 174
Documentation 174
Expiration 175
Holder's Responsibilities 174
In General 174
Revocation 174
Tax Imposed by Hotel/Motel Room Sales Tax 174
Taxable Purchases 174
Valid Only on Purchases of Tangible Personal Property 175
Disadvantaged Loans
Disadvantage Loans 290
Disadvantaged Community 289
Disadvantaged Loans and Affordability 289
Disapproval Designation 226
Defects 226
Monitoring 226
Non-Payment of Annual Fee Assessment 226
Operating Procedures 226
Quality 226
Unapproved Source 226
Disbursements 301
Final Disbursement 301
Loan Decreases 301
Loan Disbursements 301
Loan Increases 301
Project Review to Determine Final Eligible Costs 301
Discounts, Coupons, Rebates, & Gift Certificates 107
Adjustments That Apply After Tax Calculation 107
Adjustments That Apply Before Tax Calculation 108
Buy One Get One Free Discounts 109
Complimentary Gift with Purchase of an Item 109
Coupon Books 108
Donated Goods 108
Examples 109
Gift Certificates 108
Disinfectant Residuals, Disinfection Byproducts, & Disinfection Byproduct Precursors 245
Analytical Requirements 245
Compliance Requirements 245
General Requirements 245
Monitoring Requirements 245
Treatment Techniques for Control of Disinfection Byproduct (DBP) Precursors 245
Disinfection Residuals, Disinfection Byproducts, & Disinfection Byproduct Precursors 236
Disposition Of Applications 24
Denial of Application 24
Denial of Licensure 25
Failure to Complete Application Process 25
Incomplete Application 25
Notification of License Renewal 25
Termination of Application Process 24
Distribution 198
Auditorium or Community Center District Tax 198
Travel & Convention Tax 198
Distribution Of Sales Tax Revenues 181
District Boundaries 195
Dock Reconfiguration 47
Donations To Political Subdivisions & Certain Nonprofit Organizations Of Tangible Personal Property Used For Improvements To Real Property 131
Donated Property 131
Property Not Incorporated Into Real Property 131
Purchase of Donated Items 131
Drinking Water Advisory Committee 228
Drop Shipments 76
Examples 78
In General 77
Parties to the Contract 77
Resale Certificate 78
Sales Tax Responsibilities of the Permitted Manufacturer 77
Sales Tax Responsibilities of the Retailer 78
Sales Tax Responsibilities of the Unpermitted Manufacturer 77
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers 117
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers Dry Cleaners & Laundries 117
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers Laundromats 117
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers Linen Suppliers 117

E

Eligible Systems 285
Assistance to Ensure Compliance 285
Eligible Drinking Water Systems 285
Eligible Wastewater Systems 285
Encroachment Standards 39
ATONs 43
Boat Garage 41
Breakwaters 41
Commercial Marina 40
Community Docks 39
Covered Slip 40
Excavating or Dredging 43
Fill Material 46
Float Homes 42
Floating Toys 46
General Encroachment Standards 43
Lake Specific Encroachment Permit Terms 46

Marine Motor Fuel Dispensing Facilities 46
Mooring Buoys 42
Riprap 41
Seawalls 41
Single-Family & Two-Family Docks 39
Enforcement 206
Notice of Violation 206
Security & Patrol 206
Enhanced Filtration & Disinfection - Systems Serving Fewer Than Ten Thousand People 237, 244
Comprehensive Performance Evaluation (CPE) 237
Comprehensive Technical Assistance (CTA) 237
Enhanced Filtration & Disinfection - Systems Serving Ten Thousand Or More People 236, 241
Criteria for Avoiding Filtration 242
Disinfection Profiling & Benchmarking 242
Filtration 242
Filtration Sampling Requirements 242
General Requirements 241
Enhanced Treatment For Cryptosporidium -- Long Term 2 Enhanced Surface Water Treatment Rule 244
Assessment of Significant Changes in the Watershed 244
Cryptosporidium Treatment Credit for Approved Watershed Control Program 244
Enhanced Treatment For Cryptosporidium – Long Term 2 Enhanced Surface Water Treatment Rule 237
Assessment of Significant Changes in the Watershed 237
Cryptosporidium Treatment Credit for Approved Watershed Control Program 237
Environmental Review 298
CE 298
EID 298
EIS 299
Environmental Documentation 298
Exemption From Review 299
Final EIS 299
FONSI 298
Partitioning the Environmental Review 299
Use of Environmental Reviews Conducted by Other Agencies 299
Validity of Review 299
Exemption For Research & Development At INL
Exclusive Financing Exemption Under Section 63-3622BB(1), Idaho Code 132
Motor Vehicles 132
Percentage of Tangible Personal Property Exemption Under Section 63-3622BB(2), Idaho Code 133
Exemption For Research & Development At The Idaho National Laboratory (INL) 132
Agreements with Contractors 133
Incidental Use of Property 132
Parts for Equipment 132
Property Directly Used or Consumed 132
Radioactive Waste 132
Real Property 132
Exemptions 195
Campgrounds Exempted 197
Continuous Occupancy Exemptions 196
Direct Pay Authority 197
Exempt Entities 195
Exemptions 195
Foreign Diplomats 197
Rooms Rented for Purposes Other Than Sleeping 197
Exemptions On Purchases By Political Subdivisions, Sales By The State Of Idaho, ITS Departments, Institutions, & All Other Political Subdivisions 148
Extent of Exemptions 149
Federal Government 150
In General 149
Other States 150
Political Subdivisions 149
Purchases by Contractors 149
Sales by Political Subdivisions 149

F

Facility & Design Standards For Municipal Wastewater Systems
Biological Treatment 355
Design & Construction of Wastewater Pipelines 332
Disinfection 363
Facility Plans 324
Engineer's Seal Required 325
Facility Plan Contents 325
Facility Plans Required 324
Submittal to Department 325
General 345
Handling & Treatment of Septage at A Wastewater Treatment Facility 369
Individual Residence Wastewater Pumping Stations 343
Operation & Maintenance Manuals 331
Approval Required 331
Manual Contents 331
Preliminary Engineering Reports 327
Engineer's Seal 331
PER Contents 327
Preliminary Engineering Reports Required 327
Submittal to Reviewing Authority 327
Screening & Grit Removal 354
Septage Transfer Stations 367
Settling 354
Baffling 354
Isolation 354
Minimum Side Depth 354
Settling Units 354
Sizing 354
Sludge Processing, Storage, & Disposal 354
Supplemental Treatment Processes 366
Wastewater Lagoons 359
Wastewater Pumping Stations 336
Facility & Design Standards For Municipal Wastewater Treatment Or Disposal Facilities
Biological Treatment
Activated Sludge 356
Other Biological Systems 359
Trickling Filters 355
Design & Construction of Wastewater Pipelines
Design Capacity and Design Flow 332
Details of Design & Construction 332
Disinfection
Chlorine Disinfection 363
Dechlorination 364
Determining The Necessity for Disinfection 363
General 363
Ultraviolet (UV) Radiation 365
General
Design 346
Essential Facilities 348
Instructions & Equipment 350
Laboratory 350
Operation & Maintenance 350
Plant Details 347
Plant Location 345
Plant Outfalls 348
Quality of Effluent 346
Safety 349
Handling & Treatment of Septage at A Wastewater Treatment Plant
Characteristics 369
Considerations 369
General 369
Individual Residence Wastewater Pumping Stations
Alarm Systems 344
Design 343
Emergency Operation 344

Force Mains 344
General 343
Instructions & Equipment 344
Operation & Maintenance 344
Submersible Pump Stations - Special Considerations 344
Screening & Grit Removal
Grit Removal Facilities 354
Screening Devices & Comminutors 354
Settling, General 354
Sludge Processing, Storage, & Disposal
Design 355
Facilities 354
Multiple Units 355
Submission of Plans and Support Documents 331
Supplemental Treatment Processes
Chemical Treatment 366
Filtration for Tertiary Treatment 367
Wastewater Lagoons
Allowable Seepage Rates 360
Basis of Design 361
Closure 362
General 359
Industrial Wastes as a Part of the Municipal Wastewater 361
Lagoon Construction Details 361
Lagoons Leaking Above the Allowable Amount 360
Location 360
Number of Cells 361
Seepage Testing 359
Wastewater Pumping Stations
Alarm Systems 339
Design 336
Emergency Operation 339
Force Mains 342
General 336
Instructions & Equipment 342
Operation & Maintenance 342
Screw Pump Stations - Special Considerations 339
Submersible Pump Stations - Special Considerations 338
Suction Lift Pump Stations - Special Considerations 338
Falsification of Records, Point Source
Point Source Wastewater Treatment Requirements
Wastewater Treatment Requirements 317
Farming & Ranching 140
Directly Used 141
Disinfectants Used in the Dairy Industry 141
Exemption Certificate 142
Farmers 142
In General 141
Plants 141
Property Primarily & Directly Used 141
Quality Control 141
Safety Supplies 141
The Farming Exemption Doesn't Include 141
Transportation Activities 141
Federal Excise Taxes & Retailers Taxes 119
Excluded Federal Taxes 119
General Rule 119
Fee Schedule
Boating Facilities 62
Entrance 61
Fee Collection Surcharge 61
Group Campsite or Facility 62
Individual Campsite Or Facility 61
Reservations 62
Fee Schedule For Public Drinking Water Systems 226
Billing 227
Delinquent Unpaid Fees 227
Effective Date 226
Fee Assessment 226
Fee Schedule 226
Payment 227
Reinstatement of Suspended Services & Approval Status 228
Responsibility to Comply 228
Suspension of Services & Disapproval Designation 227
Fees Charged For Fax Services 110
Receiving a Fax 110
Sending a Fax 110
Filtration & Disinfection 231, 239
Analytical & Monitoring Requirements 233, 240
Criteria for Avoiding Filtration 240
Disinfection 232, 240
Filtration 231, 239
General Requirements 239
Recycle Provisions 234, 241
Reporting & Recordkeeping Requirements 233, 241
Financial & Management Capability Analysis 286
Cost Allocation 287
Incorporated Nonprofit Applicants 286
Information Needed 286
Waivers 287
Flying Clubs 93
Aircraft Repair Parts 94
Cross-Reference 94
In General 93
Other Charges to Members 93
Rental or Sale of Aircraft to Members 93
Food, Meals, Or Drinks 95
Boarding Houses 96
Church Organizations 96
Clubs & Organizations 95
Colleges, Universities, & Schools 95
Commercial Establishments 95
Food or Beverage Tastings 96
Fraternities, Sororities, & Cooperative Living Group 95
Free Giveaways to Employees 97
Honor System Snack Sales 96
In General 95
Senior Citizens 96
Taxable Purchases by Establishments Selling Meals or Beverages 96
Foreign Diplomats 151
Documentation 151
Federal Tax Exemption Cards 151
In General 151
Free Distribution Newspapers 181
Newspaper Format 181
Purchase or Use of Tangible Personal Property 181
Qualifying for Exemption 181

G

Gas, Water, Electricity Delivered To Customers 147
In General 147
Telephone Service 148
General Provisions For Waivers, Variances, & Exemptions
Conditions 225
Exemptions 225
Facility, Design Standard, and Operating Criteria Waivers 225
Monitoring Waivers 225
Public Hearing 225
Variances 225
General Resource Category Aquifers, Management of Activities With the Potential to Degrade Aquifers 272
Ground Water Quality Standards
Numerical Ground Water Quality Standards
Primary Constituent Standards 267
Secondary Constituent Standards 270
Ground Water Rule 236, 245
Chlorine Purging Prior to Triggered Source Sampling 237, 246
Discontinuation of Treatment 236, 245
Groundwater Contamination 274
Agricultural Chemicals 275
Contamination Exceeding a Groundwater Quality Standard 275
Measures Taken in Response to Degradation 274
Releases Degrading Groundwater Quality 274
Site-Specific Ground Water Quality Levels or Points of

Compliance 275
Groundwater Quality Standards 266
Narrative Groundwater Quality Standards 271
Natural Background Level 271
Numerical Groundwater Quality Standards 266

H

Health Standards 25
Adequate Heat, Light, & Ventilation 27
Alcohol & Illegal Drugs 27
Diaper Changing 26
Disaster & Emergency Planning 27
Dishwashing Sanitizing 26
Food 25
Food Contact Surfaces 26
Food Preparation 25
Food Storage 26
Food Temperatures 26
Garbage 26
Hand Washing 26
Immunizations 27
Medication 27
Restrooms, Water Supply, & Sewage 26
Safe Sleep 26
Sewage Disposal 27
Sleeping Areas 26
Smoke-Free Environment 27
Transportation 27
Utensil Storage 26
Water Supply 26
Hotels, Motels, Lodging, & Campgrounds 85
Fees 85
Resale Purchases 85
Taxable Purchases 85

I

ICCP Application For Benefits 29
Application 29
Asset Cap 29
Cooperation with Child Support Services 29
Eligible Child 29
Residency 29
Implementation 265
Aquifer Categorization 265
Level of Protection & Application of Standards to Aquifer Categories 266
Groundwater Quality Standards 265
Groundwater-Surface Water Interconnection 266
Interagency Coordination 266
Imposition Of The Prepaid Wireless E911 Fee 190
Portion of the Sale 191
Separately State The Cost 190
Service Sold Exceeds 191
Income Limits 29
Income at Application 29
Income at Redetermination 29
Income During Eligibility Period 29
Incorporation By Reference 21, 34, 65, 262, 265, 305
16 CRF Part 1219– Safety Standard For Full-Size Baby Cribs, June 28, 2011 21
16 CFR Part 1220—Safety Standard For Non-Full-Size Baby Cribs, June 28, 2011 21
2025 Idaho Child Care Program Manual 21
Crib Safety – Full Size Baby Cribs. Crib Safety 21
Crib Safety -- Non-Full-Size Baby Cribs. Crib Safety 21
Occupational Safety and Health Act (OSHA) of 1970, as amended through November 23, 2021 21
Incorporation By Reference & Availability Of Referenced Materials 214
Incorporations By Reference 210
Ambient Air Monitoring Reference and Equivalent Methods 211
Ambient Air Quality Surveillance 211
Approval and Promulgation of Implementation Plans 211
Clean Air Act 211
Compliance Assurance Monitoring 211
Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008 211
Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014 211
National Emission Standards for Hazardous Air Pollutants 211
National Emission Standards for Hazardous Air Pollutants for Source Categories 211
National Primary and Secondary Ambient Air Quality Standards 211
Permits 211
Protection of Stratospheric Ozone 211
Requirements for Preparation, Adoption, and Submittal of Implementation Plans 210
Standards of Performance for New Stationary Sources 211
State Operating Permit Programs 211
Sulfur Dioxide Allowance System 211
Ineligible Systems 286
Basic Considerations 286
Delinquent Systems 286
Ineligible Drinking Water Systems 286
Ineligible Wastewater Systems 286
Systems not Eligible 286
Initial Distribution System Evaluations 237, 245
Installation 53
Compliance With Permit 53
Installation Only After Permit Issued 53
Removal of Construction Waste 53
Sunset Clause 53
Interest On Deficiencies, Refunds & Estimated Returns
Estimated Returns 180
Interest Rate 180
Interest On Deficiencies, Refunds, & Estimated Returns 180
Alternate Formulas 180
Interest Accrual During a Period Subject to Audit 180
Judgments 180
Unpermitted Taxpayers 180
Interstate Commerce 127
Irrigation Equipment & Supplies 150
Agricultural Irrigation 150
Exemption Certificate 150
Nonagricultural Irrigation Equipment or Supplies 150
Real Property Improvements 150
Title to Equipment 150

J

Jeopardy Determination 179

L

Land Application of Wastewater(s) or Recharge Waters
Applied Waters Restricted to Premises 369
Basis for Evaluation 370
Hazard or Nuisance Prohibited 369
Monitoring 369
Reuse Permit 369
Land Application Of Wastewaters or Recharge Waters 369
Laws & Codes Outside Of These Rules 307
Laws & Codes Outside of These Rules
International Building Code 307
International Fire Code 307
National Electrical Code 307
National Fire Protection

Association Code (NFPA) 307
Requirements of National Institute for Occupational Safety & Health (NIOSH) 307
Requirements of the Occupational Safety & Health Administration (OSHA) 307
Uniform Plumbing Code 307
Layaway Sales 89
In General 89
The Time a Sale Occurs 89
Lease Or Rental Of Motion Picture - Television Film 146
Leases & Easements 52
Lease or Easement 52
Seawalls, Breakwaters, Fill 53
Legal Authority 34, 65, 193, 200, 261, 280, 305
Licensed Oporator Requirements 228, 259
Licensed Operator Required 228, 259
Responsible Charge Operator License Requirement 228, 259
Water Operator License Requirement 228, 259
Water Operator License Upgrade Allowance 228, 259
Limitation of Preloan Engineering Reviews 293
Loading Zone Parking Spaces 208
Loan Application & Review 293
Application 294
Determination of Completeness of Application 295
Notification of Incompleteness of Application 295
Reapplication for Loan 295
Submission of Application 294
Loan Consolidation 301
Loan Fee 293
Effect on Loan Interest Rate 293
Loan Fee 293
Payment of Loan Fee 293
Loan Offer & Acceptance 299
Acceptance Executed as a Contract Agreement 300
Acceptance of Loan Offer 299
Estimate of Reasonable Cost 300
Loan Offer 299
Terms of Loan Offers 300
Lodging Operators & Short-Term Rental Marketplaces 194
Applicable Taxes 194
In General 194
Registration 194
Logging 157
Directly Used 158
Election to Pay Sales Tax 159
Equipment & Supplies 158
Examples 159
In General 157
Logging Process Begins & Ends 158
Not Included in Logging Exemption 158
Property Used in Logging Operations 157
Real Property 157
Lumber Manufacturing 136
Exemption Certificate 138
Nontaxable Activities 136
Taxable Activities 137

M

Management Of Activities With The Potential To Degrade Aquifers 271
Other Resource Category Aquifers 272
Sensitive Resource Category Aquifers 271
Manufactured Homes (Mobile Homes) & Modular Buildings 105
Component Parts 105
Modular Building 105
New Manufactured Home 105
Non-component Parts 105
Repairs 106
Sale of an Office Trailer 105
Used Manufactured Home 105
Maximum Contaminant Level Goals & Maximum Residual Disinfection Level Goals 231, 239
Maximum Contaminant Level Goals for Disinfection Byproducts 239
Maximum Contaminant Level Goals for Inorganic Contaminants 239
Maximum Contaminant Level Goals for Microbiological Contaminants 239
Maximum Contaminant Level Goals for Organic Contaminants 239
Maximum Contaminant Level Goals for Radionuclides 239
Maximum Residual Disinfectant Level Goals for Disinfectants 239
Maximum Contaminant Levels & Maximum Residual Disinfectant Levels 229
Maximum Contaminant Levels for Disinfection Byproducts 229
Maximum Contaminant Levels for Inorganic Contaminants 229
Maximum Contaminant Levels for Microbiological Contaminants 229
Maximum Contaminant Levels for Organic Contaminants 229
Maximum Contaminant Levels for Per- and Polyfluoroalkyl Substances (PFAS) 229
Maximum Contaminant Levels for Radionuclides 229
Maximum Contaminant Levels for Turbidity 229
Maximum Residual Disinfectant Levels 229
Mining 275
Application of Provisions 278
Application Process 275
Change in Point(s) of Compliance/ Groundwater Monitoring 278
Coordination with Other State or Federal Agencies/Public Notice 278
Groundwater Monitoring & Reporting 277
Limitations 278
Request for Setting Point(s) of Compliance & Standards Applicable to Mining Activities 275
Setting the Point(s) of Compliance 277
Miscellaneous 54
Dredge & Placer Mining 54
Mineral Leases 54
Other Laws & Rules 54
Water Resources Permit 54
Mixed Transactions 65
Determining the Type of Sale 66
Examples 66
Kinds of Services Incidental to the Sale 67
Retail Sales of Tangible Personal Property Together with Services 66
Separately Stated Nontaxable Charges 67
Tangible Personal Property Used or Consumed by a Business 67
Money-Operated Dispensing Equipment 150
Parts, Kits, or Supplies 150
Monitoring & Analytical Requirements 229
Alternate Analytical Techniques 230
Analytical Methods for Radioactivity 230
Approved Laboratories 230
Disinfection Residuals, Disinfection Byproducts, & Disinfection Byproduct Precursors 230
Inorganic Chemical Sampling & Analytical Requirements 229
Monitoring 230
Monitoring & Analytical Requirements for Per- and Polyfluoroalkyl Substances (PFAS) 230
Monitoring Frequency & Compliance Requirements for Radioactivity In Community Water Systems 230
Monitoring of Consecutive Water Systems 230

Organic Chemicals, Sampling & Analytical Requirements 229
Reporting and Record Keeping Requirements for Per- and Polyfluoroalkyl Substances (PFAS) 231
Special Monitoring for Corrosively Characteristics 230
Special Monitoring for Sodium 230
Total Coliform Sampling & Analytical Requirements 229
Turbidity Sampling & Analytical Requirements 229
Motor Fuels 133
Exclusion from Exemption 133
Exemptions 133
Motor Vehicles - Sales, Rentals, & Leases
Vehicles Purchased From Out-of-State Dealers 163
Motor Vehicles & Trailers Used In Interstate Commerce 156
Documentation 157
Failure To Meet Interstate Mileage Requirement 157
In General 156
Motor Vehicles 157
Repair Parts & Supplies 157
Title or Base Plate 157
Trailers 157
Multi-Level Marketing Firms 76
Agents 76
Multi-Level Marketing Firm 76
Notification 76
Requirement of Multi-Level Marketing Firms to Collect Tax 76

N

Noncommunity water system 222
Nontaxable Purchases by Establishments Selling Meals or Beverages 96
Nontransient noncommunity water system 222

O

Occasional Sales 151
Bulk Sale - Sale of an On-Going Business 152
Change in the Form of Doing Business 152
Examples 155
Exclusion From the Occasional Sale Exemption 154
Exempt Sales of Aircraft, Boats, & Recreation-Related Vehicles 154
Motor Vehicles 153
Occasional Seller 151
Sale of a Motor Vehicle Between Family Members 152
Sales & Rentals to Related Parties 153
Sales by a Business 154
Taxable Sales of Aircraft, Boats, & Recreation Related Vehicles 154
Yard Sales 155
Office Hours – Mailing Address & Street Address 305
Operating Criteria For Public Water Systems 254
Cross Connection Control - Non-Community Water Systems 258
Cross Connection Control Program - Community Water Systems 257
Disinfection 256
Fluoridation 257
Ground Water 256
Operating Criteria 256
Quantity & Pressure Requirements 254
Start-up Procedures for Seasonal Systems 258
Outfitters, Guides, & Like Operations 103
Equipment Rental 104
Federal Preemption 105
Game Processing, Packing, & Taxidermy 104
Government Use Fee 104
In General 103
Lodging 104
Prepaid Travel Expense 104
Prepurchase Hunting & Fishing Licenses 104
Purchases by Outfitters & Like Operations 104
Services Performed in More Than One State 103
Travel Agency Services 104
Out-Of-State Sales 148
Out-of-State Sales 148
Records 148
Ozone 366

P

Parking Lot Locations 201
Parking Lot Violations 205
Driving Violations 205
Other Violations 206
Parking Violations 205
Parking Permit Fees 204
Directors of Executive Branch Departments 205
Elected Officials Parking Permits 205
General Parking Permits 205
Legislators 205
Payment for Parking Permits 205
Replacement Permits 205
Reserved Parking Permits 205
State-Owned Vehicles 205
Parking Permits 204
Parking Permits for Reserved, Legislator, Disabled Employee, State-Owned Vehicles & General Parking 204
Temporary Meeting Parking Permits 204
Temporary Monthly Parking Permits 204
Parking Space Allocation 201
Carpool Parking Spaces 202
Disabled Employee Parking Spaces 202
General Parking Spaces 203
Legislators' Parking Spaces 202
Motorcycle Parking Spaces 203
Reserved Parking Spaces 201
State-Owned Vehicles Parking Spaces 203
Visitor Parking Spaces 203
Permits
Out-of-State Seller 127
Requirements of Holding a Seller's Permit 128
Temporary Seller's Permits 128
Persons Engaged In Advertising 111
Advertising Agency as Agent of Client or as Non-Agent 112
Cross-References 115
Examples 116
In General 112
Items Prepared by Agency 112
Media Advertising & Advertisements 112
Purchases by Advertising Agencies, Graphic Artists, & Similar Operations 114
Purchases by Radio & Television Broadcasters 114
Sale of Custom Made Audio-Visual Films & Audio Recordings 113
Sales of Design Services 114
Sales of Non-Media Advertising 113
Persons Engaged In Printing 110
Advertising Inserts 111
Labels & Other Printed Matter Sold to Manufacturers 111
Printing upon Special Order 110
Private Printing Plants 110
Sales by Persons Engaged in Printing 111
Photographers & Photofinishers 116
Definitions 117
Sales by Photographers & Photofinishers 116
Sales of Photographs 116
Sales of Videos 116
Sales to Photographers & Photofinishers 116
Plan & Specification Review Dispute Resolution 323
Plans & Specifications 368
Point Source Wastewater Treatment

Requirements
Appropriate Control Measures 316
Degree of Treatment 317
Operation 317
Treatment Records 317
Policies 262
Categorization of Ground Water 262
Existing & Projected Future Beneficial Uses 262
Ground Water Quality Protection 262
Ground Water Quality Standards 262
Mining 263
Prevention of Ground Water Contamination 262
Policy 38, 281
No Encroachments Without Permit 38
Permitting of Existing Encroachments 38
Public Trust Resource Protection and Navigational or Economic Necessity, Justification, or Benefit 38
Prescriptions 155
Dental & Orthodontic Appliances 156
Documenting Exempt Sales 156
Examples 156
In General 155
Orthopedic Appliances 156
Purchases by Nursing Homes & For-Profit Hospitals 156
Purchases by Practitioners 156
Sale Of Eyeglasses, Contact Lenses, & Related Products 156
Price & Product Labels 97
Price Labels 97
Product Labels 97
Priority Rating System 287
Amendment of a Priority List 289
Priority for Drinking Water Systems 288
Priority List 289
Priority Rating for Wastewater Systems 289
Purpose 287
Rating Forms 289
Wastewater Priority Rating 287
Private Community Municipal Wastewater Treatment Plants
Plan & Specification Approval 352
Private Community Municipal Wastewater Treatment Plants 352
With Drainfields 353
Private Municipal Wastewater Treatment Plants
Facility Plan and PER 351
Scope 350
Private Wastewater Treatment Plants 350
Procedures For Categorizing Or Recategorizing An Aquifer 272
Criteria for Aquifer Categories 272
Petition Process 273
Preliminary Department Review 274
Processing Of Applications For All Other Types Of Encroachments 50
Decision After Hearing 51
Decision Where No Hearing 51
Encroachments Not in Aid of Navigation 51
Factors in Decision 52
Hearing Participants 51
Judicial Review 52
Nonnavigational, Community & Commercial Navigational Encroachments 50
Notifications 51
Public Hearing 51
Written Comments or Objections 51
Processing Of Applications For Single-Family & Two-Family Navigational Encroachments 49
Processing Of Applications For Single-Family & Two-Family Navigational Encroachments Within Line Of Navigability
Decision Following a Hearing 50
Disposition Without Hearing 50
Hearings 50
Judicial Review 50
Notification of Adjacent Littoral Owners 49
Single-Family & Two-Family Navigational Encroachments 49
Unusual Circumstances 50
Written Objections 49
Producing, Fabricating, & Processing 85
In General 85
Repairing & Reconditioning 86
Production Exemption 133
Change in Primary Use of Property 136
Exempt Purchases 134
Exemption Certificate 136
In General 133
Production Process Beginning & End 135
Qualifying Businesses 134
Real Property 135
Special Rules 136
Taxable Purchases 135
Transportation Activities 136
Professional Taxidermist 94
Fabrication 94
In General 94
Materials 94
Project Scope & Funding 291
Facility Funding 292
Nonpoint Source Implementation Funding 292
Promoter Sponsored Events 188
Event Participants 188
Participant's Failure to Register for the Event 188
Promoter's Responsibility 188
Promoter's Sales Tax Liability 189
Temporary Seller's Permit Issued by Promoter 189
Public Wastewater System Operator Licensure Requirements
General Compliance Deadline 318
Land Application/Reuse Operator Compliance Deadline 318
Responsible Charge Operator License Requirement 318
Substitute Responsible Charge Operator 318
Wastewater System Operator Licensure 318
Purchase & Sale Of Tangible Personal Property Relating To Funeral Services 109
Caskets, Vaults, & Burial Receptacles 110
Documenting Purchases for Resale 110
Examples 110
Purchases by Licensed Funeral Establishments 110
Use Tax 110
Purchase Or Use Of Vehicles By Dealers, Rental Companies, & Manufacturers 169
Buying for Resale 169
Dealer Plates 169
Inventory Withdrawals 170
Service Vehicles 170
Titling a Vehicle 169

R

Radio & Telecommunications Equipment & Land Mobile Radio Service Of Systems 87
Drop-In Equipment & Inside Wiring 87
General Rule & Scope 87
Land Mobile Radio Systems or Services 87
Provider Equipment 87
Telephone Terminal Equipment & Services 87
Wireless Telecommunications Equipment 87
Radio & Television Broadcast Equipment 189
Railroad Rolling Stock, Parts, Materials & Equipment 159

Definitions 159
Generally, Excluded from This Exemption 160
Generally, Included Within the Exemption 160
In General 159
Real Property 124
Example 1 125
Example 2 125
Examples 125
Fiber Optic and Communication Cable 125
Improvements or Fixtures 124
Personal Property Incidental to the Sale of Real Property 125
Three Factor Test 125
Trade Fixtures 125
Rebates Paid To Certain Real Estate Developers 190
Certifying Expenditures Prior to Rebate Payment 190
Confidential Information 190
Developer Responsibilities 190
Disposition of Revenue from a Qualifying Shopping Center 190
Qualifying Shopping Center Location 190
Rebate of Sales Tax 190
Recordation, Issued Permit 52
Records & Auditing Of Records
Alternative Storage Media 172
Examination of Records 174
Failure of the Taxpayer, Records Required & Auditing of Records 174
In General 172
Record Retention 174
Records Prepared by Automated Data Processing Systems, ADP 173
Records Required & Auditing Of Records 172
Records Required, Nontaxed Sales By Retail Food Stores 175
Review of Petitions 176
Standard Industry Code 176
Records Retention 197
Records, Nontaxed Sales By Retail Food Stores
Authority 176
Form 175
Retail Food Store 175
Recreational Vehicle Registration 175
Boat 175
Snowmobile, Motorbike, ATV, or UTV 175
Redredging 47
Referenced Material 262, 281, 306
"Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy 306
American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal & Vertical Pump Intake Design 306
American Society of Civil Engineers (ASCE) Manuals & Reports on Engineering Practices 306
Design Criteria for Mechanical, Electric, & Fluid System and Component Reliability 306
Guidance for Reclamation and Reuse of Municipal & Industrial Wastewater 306
Idaho Standards for Public Works Construction 306
Memorandum of Understanding 306
Nutrient-Pathogen Evaluation Program for On-Site Wastewater Treatment Systems 306
Plan & Specification Dispute Resolution Policy 306
Pumping Station Design - Third Edition 2006 306
Recommended Standards for Wastewater Facilities 306
The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide" 306
Ultraviolet Disinfection Guidelines for Drinking Water & Water Reuse 306
Water Environment Federation (WEF) Manuals of Practice 306
Refund Claims 177
Bad Debts 177
Cross Reference 178
Denial of a Refund Claim 178
In General 177
Interest on Refunds 178
Mathematical Errors 177
Outstanding Liabilities 178
Payment of Sales or Use Tax Directly to the State 177
Payment of Sales Tax by a Buyer to a Vendor 177
Payment Under Protest 178
Refund Claims 177
Statute of Limitations 178
Taxes Paid in Response to a Notice of Deficiency Determination 178
Registration 195
Rentals Or Leases Of Tangible Personal Property 78
Bare Equipment Rental 78
Cross-References 80
Exempt Equipment Rentals 80
Fully Operated Equipment Rentals 79
In General 78
Lease-Purchase & Lease With Option to Purchase 80
Maintenance of Rental Equipment 79
Mixed Use of Rental Equipment 79
Operator Obligated to Be Paid by Customer 79
Out-of-State Rental/Lease 80
Personal Property Tax 80
Rental Payments Applied to Future Sales 80
Rentals to Exempt Entities 79
Repairs - Sale Of Parts & Material Parts for Resale 121
Repairs To Tangible Personal Property 120
Examples 121
In General 120
Incidental Materials 120
Repairs Covered by Insurance Benefits 120
Repairs Versus Fabrications 120
Separate Statement of Parts & Materials 120
Shop Supplies 120
Reporting, Public Notification, Recordkeeping 231
Public Notification 231
Public Notification for Low System Pressure 231
Public Notification of Drinking Water Violations 231
Record Maintenance 231
Reporting & Record Keeping Requirements 231
Reporting & Record Keeping Requirements for the Disinfectants & Disinfectant Byproducts Rule 231
Reporting & Record Keeping Requirements for the Revised Total Coliform Rule 231
Reporting & Recordkeeping Requirements for the Interim Enhanced Surface Water Treatment Rule 231
Reporting for Unregulated Contaminant Monitoring Results 231
Rescinded Sale, Refunds Of Purchase Price 101
Documentation 102
Optional Warranty & Other Contracts 101
Refund of Remitted Sales Tax 101
Refund Reduced 101
Required to Buy Other Property 101
Rescinded Sale 101
Restocking Charge 101
Responsibility For Payment Of Sales Taxes Due From Corporations, Limited Liability Companies, &

Partnerships 178
Corporate Officers Duty to Pay Sales Tax 178
Penalty for Failure to Collect 179
Restrictions On Applicability & Nontransfer 25
Change in Ownership or Location 25
Issued License 25
Nontransferable 25
Return of License 25
Retail Sale Of Asphalt, Concrete, & Concrete Products 74
Agricultural Irrigation 74
In General 74
Production Exemption 74
Retailer Defined 75
An Agent as a Retailer 75
Farmers 75
Retailer 75
Retailer Engaged in Business in this State 75
Retailers Selling Incidental Tangible Personal Property 75
Returns 197
Filing Returns 197
Returns Filed By County Assessors & Financial Institutions 171
Cross Reference 172
Filing Returns 171
Financial Institutions 171
Reimbursement 171
Review Of Plans For Municipal Wastewater Systems 319
Compliance With Applicable Standards & Rules 322
Construction Inspection 322
Department Approval On-site During Construction 322
Engineer's Seal 321
Exception 322
Ownership 319
Plan & Specification Review 319
Record Plans & Specification 321
Will Serve Letter 319
Review Of Plans For Nonmunicipal Wastewater Systems 322
Applicability of Standards 323
Department Approval On-site During Construction 323
Deviations From Approved Plans 322
Engineer's Seal 322
Plan & Specification Approval Required 322
Record Plans & Specifications 322
Waiver of Approval Requirement, 323
Review of Plans for Waste Treatment or Disposal Facilities
Professional Engineer 321
Revised Total Coliform Rule 238
Approved Parties for Level 2 Assessments 238
Level 1 & 2 Assessments 238
Level 2 Assessments 238
Road & Paving Contractors
Examples 70
Road, Paving, & Earthwork Contractors 70
In General 70
Materials 71
Production Exemption 71
Road or Paving Contractor 70
Rock Crushing 71
Room Or Campground Charge Defined 195
Not Included 195
Room or Campground Charge Definition 195

S

Sale Of Tangible Personal Property Relating To Funeral Services
In General 109
Sales by Licensed Funeral Directors 109
Seller's Permit Required 110
Sale Or Purchase Of Matter Used To Produce Heat By Burning 146
Bulk Sales 146
Documentation of Other Exempt Sales 146
Heating Matter 146
Liquefied Propane 146
Sales & Free Distribution Of Newspapers & Magazines 88
Product Consumed by the Publisher 88
Single Copy Price 88
Single Unit Price & Net Press Run 89
Subscription Price 88
Subscriptions 88
Vending Machine Sales 88
Sales & Purchases By Religious Organizations 145
In General 145
Incidental Sales by Religious Corporations or Societies 145
Meals Sold by a Church to Members Only 145
Sales of Literature by a Nonprofit Corporation 146
Sales & Use Tax Liability Of Federal & State Credit Unions, National & State Banks, & Federal & State Savings & Loan Associations 148
Purchases by Banks and Savings and Loan Associations 148
Purchases by Credit Unions 148
Sales by Credit Unions, Banks, Savings & Loan Associations 148
Sales By County Sheriffs 76
Requirement to Register 76
Sales 76
Sales By Florists 119
Rentals 119
Sales 119
Street Vendors 119
Sales Of Livestock 189
Exempt Sales of Livestock 189
Sales of Other Animals Excluded 189
Sales Of Newspapers & Magazines 88
Carriers Less Than Sixteen Years Old 88
Computation of Tax 88
Cross-Reference 89
Independent Retailer Sales 88
Individual Sales 88
Sales Price Or Purchase Price Defined 97
Added Charges 99
Charges Not Included 98
Costs of Business 99
Gratuities 98
Sales Price & Purchase Price 97
Service Charges 98
Services Agreed to be Rendered as a Part of the Sale 98
Sales Tax Collected By The Idaho State Liquor Division 181
Reporting 181
Sales for Resale 181
Sales Tax Collected By The State Liquor Dispensary
Liquor Subject to Sales Tax 181
Sales Tax Rules Apply Unless Otherwise Provided 198
Sales Through Vending Machines 117
Amount Taxable 117
Calculation of Tax 118
Cross-References 118
Examples 118
In General 117
Requirement to Obtain a Seller's Permit 118
Sales To & Purchases By Nonprofit Organizations 143
Educational Institutions 143
Exemption Certificate 144
Food Banks & Soup Kitchens 143
Free Dental Clinics 145
Health Related Entities 143
Hospitals 143
Idaho Foodbank Warehouse, Inc 143
In General 143
Literature 144
Nonsale Clothiers 144
Red Cross 144
Sales by Nonprofit Organizations 144
Senior Citizen Centers 144
Sales To American Indian Tribal Members 148
Records 148
Sales of Motor Vehicles to Indians 148

Sales to American Indians 148
Sales Under The SNAP & WIC Programs, Records For Payments With Electronic Benefit Transfer Cards & WIC Tender 175
In General 175
Records 175
Sanitary Surveys 242
Consultation with the Department 243
Frequency 242
Report 242
Response Required 243
Significant Deficiencies 242
Violation 243
Scope 34, 65, 193, 200, 261, 280, 305
Secondary MCLS 246
Seller's Permits 127
Cancellation of a Sales Tax Permit 128
Examples 128
Obtaining a Permit 127
Sales in Leased Premises 127
Seller's Permit & Sales Tax Permit 127
Suspension of Sales Tax Permits 128
Separate Statement Of Tax
Amount of Tax Charged 195
Fractional Parts of One Cent 195
Separately Stated Tax 195
Signs
Billboards 90
Displays, Graphics, or Signs Applied to Real Property 90
Lease or Rental of Signs 89
Material That Becomes Part of a Sign 90
Road Signs 90
Signs & Billboards 89
Signs & Billboards as Custom Made Articles 89
Siting & Construction Of Wells 246
Construction Standards 247
Conversion of Non-Public Water System Wells for Public Water System Use 252
Disinfection 250
Location 247
Site Approval 246
Test Pumping 251
Well Abandonment 252
Well Completion Report 250
Wells 252
Sludge Management Program 370
Basis for Evaluation 370
Elements of Sludge Disposal Plans 370
Elements of Sludge Plans Plans 370
Plans 370
Sludge Usage
Reference to Federal Regulations 371
Snowgrooming & Snowmaking Equipment 189
Consumable Supplies Not Exempt 190
Exemption for Snow Equipment 190
Stage 2 Disinfection Byproducts Requirements 237, 245
Subsurface Sewage Disposal 319
Successor's Liability 179
Application for Seller's Permit Number 179
Copy of Earnest Money 179
Making Inquiries 179
Written Inquiry 179
Written Statement from State Tax Commission 179
Supplemental Grants 291
Costs in Excess of Financial Ability 291
Projects Not Funded by Loans 291
Surrender Of Parking Permit 207
Cancellation of Automatic Payroll Deduction 207
Surrender of Permit 207
Suspension Or Revocation Of Parking Privileges 207
Delinquent Payment 207
Parking Privileges Suspension 207
Reactivating a Suspended Permit 207
Towing & Impounding 207
Suspension or Termination of Loan Contracts 301
Causes 301
Determination 302
Notice 302
Reinstatement of Suspended Loan 302
Reinstatement of Terminated Loan 302

T

Tangible Personal Property Brought Or Shipped To Idaho 130
Equipment Brought into Idaho 130
Examples 131
Licensed Motor Vehicles 131
Substantive Use 130
Transient Equipment 130
Temporary Permits 52
Applicability 52
Bonding 52
Fee 52
Permit Term 52
Processing 52
The Sale, Lease, Or Rental Of Real Property 80
Hotel, Motel, & Campground Accommodations 81
In General 81
Time & Imposition Of Tax, Returns, Payments & Partial Payments
Time & Imposition of Tax 161
Time & Imposition Of Tax, Returns, Payments, & Partial Payments 160
Extension of Time to File 162
Filing Dates--General Rule 163
Payment of Tax 163
Returns 161
Sale & Use Tax Returns 162
Valid Return 161
Tire Balancing, Studding, & Siping 123
Examples 124
Materials Used in Performing a Service 124
Services Not Subject to Sales Tax 124
Services Subject to Sales Tax 123
Tires - Balancing, Studding, & Siping Cross-Reference 124
Trade-In & Trade-Down 99
Core Charges 100
Disallowed Trade Allowance 100
Examples 101
Rental/Lease Property Traded-In 101
Trade Allowance 99
Trade-Down 99
Trade-In 99
Trade-In for Rental/Lease Property 100
Trade-Ins, Trade-Downs & Barter
Insurance Settlements 100
Trade-Downs 99
Transfers Between Related Parties, Occasional Sale 153
Transient noncommunity public water system 222
Transportation, Freight, & Handling Charges 119
Charges for Delivery to the Seller 119
Charges Not Separately Stated 119
Delivery by the Retailer 120
Demurrage 120
Freight-In Charges 119
In General 119
Use of Transportation Charges as a Means of Avoiding Sales Tax 120
Treatment Techniques 236
Types Of Available Parking 201

U

Underground Mining 138
Exemption Certificate 139
Nontaxable Purchases 138
Taxable Purchases 138
Use Of A Recreational Facility & Instructional Fees 187
Dues 187
Instructional Fees 188

Recreational Facility 187
Use of Tangible Personal Property 188
Use Of A Recreational Facility, Instructional Fees, & Pari-Mutuel Betting
Pari-Mutuel Betting 188
Use Of Guidance In Design & Review 305
Use Of Non-Centralized Treatment Devices 234
Point of Use (POU) Treatment Devices 234

V

Vehicle - Manufacturer's, Rental Company's, & Dealer's Purchase Or Use Of Vehicles
Applicability of Rule 108 170
Inventory Withdrawals by Rental Companies 170
Vehicle Sales, Rentals, & Leases 163
Cross-References 165
In General 163
Vehicles Purchased From Idaho Dealers 163
Vehicles Purchased From Private Parties 163
Vehicles Purchased from Retailers 164
Vehicles Rented or Leased 164
Vehicles & Vessels - Gifts, Military Personnel, Nonresident, New Resident, Tax Paid To Another State, Sales To Family Members, Sales To American Indians, & Other Exemptions
Bulk Sale Transfers 168
In General 165
Motor Vehicles & Trailers Used in Interstate Commerce 169
Related Party Transfers & Sales 169
Sales to American Indians 168
Vehicles & Vessels – Gifts, Military Personnel, Nonresidents, New Residents, Tax Paid To Another State, Sales To Family Members, & Other Exemptions 165
Examples 169
Gifts of Vehicles 165
Military Personnel 166
New Residents 166
Purchases Brought into Idaho by Nonresidents 166
Sales to Family Members 167
Sales to Nonresidents 168
Tax Paid to Another State 167
Veterinarians & Veterinary Supplies 107
Drugs & Other Supplies 107
Equipment & Supplies 107
In General 107
Retail Sales of Drugs & Supplies 107
Services Provided to Exempt Customers 107
Violations - Penalties 54
Cease & Desist Order 54
Injunctions, Damages 55
Mitigation, Restoration 55
Noncompliance Resolution 54
Notice of Noncompliance/ Proposed Permit Revocation 54
Revocation of Lake Encroachment Permits 55
Violations 55

W

Waiver Of Requirements & Amendment Of Priority List
Health Hazard 302
Pollution 302
Water Contamination 302
Waiver Of Rules 208
Waivers 302, 371
Affordability Criteria Exceeded 302
Public Health Protection 302
Warranties & Service Agreements 106
Cross-Reference 107
Non-Optional Warranty or Service Agreement 106
Optional Warranty or Service Agreement 106
Parts in Addition to Warranty Fee 107
Replacement Parts & Maintenance Supplies 107
Separate Optional Contract 106
Services Agreed to be Rendered 106
Warranties & Service Agreements 106
Wastewater System Requirements 316
Well Drillers/Pump Installers 73
Examples 74
Exemptions 74
Fuel 74
In General 73
Motor Vehicles 74
Pump Installation 73
Types 73
Well Drilling 73
Winter Recreation Programs 60
Winter Access Program 60
Winter Recreational Parking Permits 60
Written Interpretations 262, 305

Y

Yard Sales 151
Exempt Yard Sales 151
In General 151