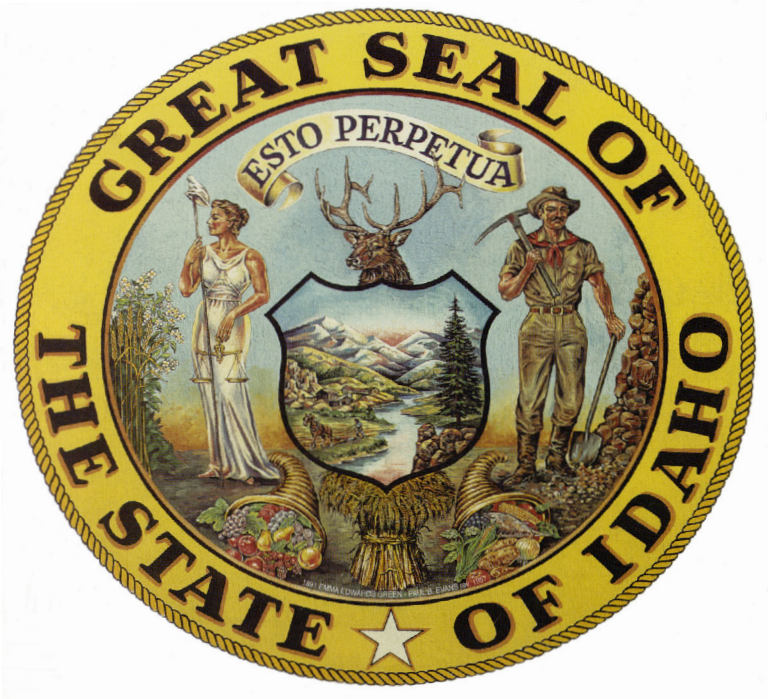
IDAHO ADMINISTRATIVE BULLETIN

October 7, 2026 – Vol. 26-10

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



The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Division of Financial Management, Office of the Governor, pursuant to Title 67, Chapter 52, Idaho Code.

Brad Little, Governor
Lori Wolff, Administrator, Division of Financial Management
Darren Damon, Regulatory & Legislative Affairs Chief
Bradley A. Hunt, Administrative Rules Coordinator
Logan P. Medel, Administrative Rules Specialist

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IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

October 7, 2026 – Vol. 26-10

PREFACE 6

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02.01.07 – Rules Governing Hemp

Docket No. 02-0107-2601 (Fee Rule)

Notice of Rulemaking – Proposed Rule 13

02.02.14 – Rules for Weights and Measures

Docket No. 02-0214-2601 (Fee Rule)

Notice of Rulemaking – Proposed Rule 26

02.04.05 – Rules Governing Grade A Milk and Manufacture Grade Milk

Docket No. 02-0405-2601

Notice of Rulemaking – Proposed Rule 32

02.06.09 – Rules Governing Invasive Species and Noxious Weeds

Docket No. 02-0609-2601

Notice of Rulemaking – Proposed Rule 36

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.11 – Registration of Postsecondary Educational Institutions and Proprietary Schools

Docket No. 08-0111-2601

Notice of Rulemaking – Proposed Rule 47

08.02.02 – Rules Governing Uniformity

Docket No. 08-0202-2601

Notice of Rulemaking – Proposed Rule 49

Docket No. 08-0202-2602

Notice of Rulemaking – Proposed Rule 65

Docket No. 08-0202-2603

Notice of Rulemaking – Proposed Rule 67

08.02.03 – Rules Governing Thoroughness

Docket No. 08-0203-2601

Notice of Rulemaking – Proposed Rule 69

Docket No. 08-0203-2602

Notice of Rulemaking – Proposed Rule 77

08.06.01 – Rules Governing the K-12 and Postsecondary Education System

Docket No. 08-0601-2601 (New Chapter)

Notice of Rulemaking – Temporary and Proposed Rule 83

IDAPA 11 – IDAHO STATE POLICE / PEACE OFFICER STANDARDS AND TRAINING COUNCIL

11.11.01 – Rules of the Idaho Peace Officer Standards and Training Council

Docket No. 11-1101-2601

Notice of Rulemaking – Proposed Rule 88

Docket No. 11-1101-2602
Notice of Rulemaking – Rescission of Temporary Rule and Vacation of Proposed Rulemaking.....104
Docket No. 11-1101-2603
Notice of Rulemaking – Temporary and Proposed Rule.....105

IDAPA 13 – IDAHO DEPARMENT OF FISH AND GAME
13.01.09 – Rules Governing Taking of Game Birds and Upland Game Animals
Docket No. 13-0109-2601
Notice of Rulemaking – Proposed Rule.....119
13.01.10 – Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife
Docket No. 13-0110-2601
Notice of Rulemaking – Proposed Rule.....121

IDAPA 15 – OFFICE OF THE GOVERNOR / IDAHO STATE LIQUOR DIVISION
15.10.01 – Rules of the Idaho State Liquor Division
Docket No. 15-1001-2601
Notice of Rulemaking – Proposed Rule.....123

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.02.19 – Idaho Food Code
Docket No. 16-0219-2601
Notice of Rulemaking – Proposed Rule.....126
16.03.22 – Residential Assisted Living Facilities
Docket No. 16-0322-2601
Notice of Rulemaking – Temporary and Proposed Rule.....133
16.03.26 – Medicaid Plan Benefits
Docket No. 16-0326-26L2
Notice of Revocation of Final Rules.....136
Docket No. 16-0326-2601
Notice of Rulemaking – Proposed Rule.....137
16.05.06 – Criminal History and Background Checks
Docket No. 16-0506-2601
Notice of Rulemaking – Proposed Rule.....230
16.06.01 – Child and Family Services
Docket No. 16-0601-2601
Notice of Rulemaking – Proposed Rule.....247

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.02.01 – Rules Pertaining to the Idaho Forest Practices Act
Docket No. 20-0201-2601
Notice of Rulemaking – Proposed Rule.....282

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES
24.05.01 – Rules of the Board of Drinking Water and Wastewater Professionals
Docket No. 24-0501-2601 (Fee Rule)
Notice of Rulemaking – Proposed Rule.....285

24.39.10 – Rules of the Idaho Electrical Board
Docket No. 24-3910-2601
Notice of Rulemaking – Proposed Rule 287

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION
26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities
Docket No. 26-0120-2601 (Fee Rule)
Notice of Rulemaking – Proposed Rule 297

IDAPA 28 – IDAHO DEPARTMENT OF COMMERCE
28.04.01 – Rules Governing the Idaho Reimbursement Incentive Act
Docket No. 28-0401-2601
Notice of Rulemaking – Proposed Rule 300

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – Property Tax Administrative Rules
Docket No. 35-0103-2602
Notice of Rulemaking – Temporary and Proposed Rule.....308

35.02.01 – Tax Commission Administration and Enforcement Rules
Docket No. 35-0201-2601
Notice of Rulemaking – Proposed Rule 310

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES
37.01.01 – Rules of Procedure of the Idaho Department of Water Resources and the Water Resource Board
Docket No. 37-0101-2601
Notice of Rulemaking – Proposed Rule 325

37.03.08 – Water Appropriation Rules
Docket No. 37-0308-2601
Notice of Rulemaking – Proposed Rule 328

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.60 – Rules Governing License Plate Provisions
Docket No. 39-0260-2601
Notice of Rulemaking – Proposed Rule 334

39.02.80 – Rules Governing Motor Carrier Financial Responsibility
Docket No. 39-0280-2601
Notice of Rulemaking – Proposed Rule 341

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.06 – Solid Waste Management Rules
Docket No. 58-0106-2601 (Fee Rule)
Notice of Rulemaking – Proposed Rule 345

IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS
62.01.01 – Idaho Rules of Administrative Procedure
Docket No. 62-0101-2601
Notice of Rulemaking – Proposed Rule 356

SECTIONS AFFECTED INDEX 389

LEGAL NOTICE - SUMMARY OF PROPOSED RULEMAKINGS 403

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES 407

SUBJECT INDEX 414

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:

a) an imminent threat to the public health, safety, or welfare from a specified danger that was unknown to the agency prior to or during the most recent session of the legislature or from the measurable worsening of such threat or danger;
b) compliance with deadlines in amendments to governing law;
c) reducing a regulatory burden that would otherwise impact individuals or businesses;
d) protection of citizens' rights; or
e) a natural disaster.

If a rulemaking meets one or more of these criteria, the Governor must publish a statement as to why an earlier effective date is required prior to receiving legislative authorization. The agency may then adopt a temporary rule to make it immediately effective or choose a later effective date. 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 or operation of law. An agency cannot adopt the same or substantially similar temporary rule unless (a) the Governor finds it is necessary due to an imminent threat to the public health, safety, or welfare, (b) 90 days have elapsed since the previous rule expiration, or (c) the Governor issues a declaration of a disaster emergency in state law. Agencies must concurrently promulgate a temporary rule and a proposed rule showing changes from the final 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)

REGULATORY ANALYSIS FOR 8 YEAR REVIEW SCHEDULE IS DUE ANNUALLY BY MARCH 1ST

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	Mar 6	April 10	April 17	May 15	June 19	July 17	Aug 14	Sept 18	Oct 16	Nov 20
AGENCY FILING DUE	Jan 9	Feb 6	Mar 13	April 17	May 1	May 29	July 7	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***

RULEMAKING DEADLINES CY 2027

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

****September 3, 2027: Last day to submit a Proposed Rule for the upcoming Legislature***

*****December 3, 2027: Last day to submit a Pending Rule for the upcoming Legislature***

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

Access to Idaho Rule Writer's Manuals

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 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) 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
IDAPA 09	**Labor**, Idaho Department of
IDAPA 20	**Lands**, Idaho Department of

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

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 and 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) Long-Term Care Administrators, Idaho Board of (24.41) Massage Therapy, Board of (24.27) Medicine, Board of (24.33) Morticians, Board of (24.08) Naturopathic Health Care, Board of (24.40) Nursing, Board of (24.34 and 24.26) Occupational Therapy Licensure Board (24.06) Optometry, Board of (24.10) Outfitters and Guides Licensing Board (24.35) Physical Therapy Licensure Board (24.13) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Real Estate Commission (24.37) 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
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

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

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

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02.01.07 – RULES GOVERNING HEMP

DOCKET NO. 02-0107-2601 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1705 Idaho Code.

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

Tuesday, October 20, 2026 **10:00 a.m. (MT)**
In Person **Idaho State Department of Agriculture** **2270 Old Penitentiary Road, Boise, ID 83712** **Virtual:** **https://teams.microsoft.com** **Meeting ID: 248 342 365 236 191** **Passcode: e85LM9NQ** **Dial in by phone** **+1 208-985-2810,,364230543# United States, Boise** **Find a local number** **Phone conference ID: 364 230 543#** **Join on a video conferencing device** **Tenant key: idahogov@m.webex.com** **Video ID: 111 640 201 6**

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 scope of the rulemaking will be to make the rule consistent with changes approved by the Idaho Legislature in H.772 and H.879 in the 2026 Session. Those amendments included new language in H.879 related to the retail sale of hemp derived products for human ingestion or inhalation, as well as language in H.772 to clarify non-negligent violations in the production of hemp. The expansion of regulatory authority into the retail space will necessitate fees for retailers of hemp derived products, and the rulemaking will need to include new fees for those retailers. Some additional clarifications in the rule may be made within the rule while it is open to negotiation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The proposed new fees for the hemp program are as follows in Section 301:

1. Retailer annual application fee: $100
2. Retailer annual license fee: $1000
3. Retailer modification to application information fee: $100

The “modification to application information” fees for both Producers and Handlers are being reduced to $100 to make the fee consistent across the entire program.

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:

The agency estimates a total of 100 entities will submit applications to be a licensed hemp retailer in Idaho. The fees will generate approximately $110,000 of revenue to the hemp dedicated fund. The program expenses incurred through the personnel, shipping and lab costs necessary to administer the requirements mandated by the hemp program to the 100 newly licensed retailers will total approximately $95,000, which should generate a net positive revenue for the program of $15,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol. 26-7, page 37-38.

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: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator – Division of Animal Industries at (208) 332-8614.

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 28, 2026.

DATED this 27th day of August, 2026.

Scott R. Leibsle, DVM
State Veterinarian/Administrator
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8614
Email: scott.leibsle@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0107-2601
(Only Those Sections With Amendments Are Shown.)

02.01.07 – RULES GOVERNING HEMP

001. SCOPE.
These rules govern the licensing, production, handling, and research of hemp, and the retailing of hemp based products. ~~(3-15-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
In addition to the definitions in 7 CFR Part 990, the USDA Final Hemp Rule, and Section 22-1703, Idaho Code, the following definitions apply to the interpretation and enforcement of these rules: (3-15-22)

01. Accepted Laboratory. A laboratory capable of testing pursuant to rule requirements and which is a state department of agriculture laboratory or a laboratory accredited in accordance with International Organization for Standardization ISO/IEC 17025:2017 and capable of THC quantitation by gas chromatography-mass spectrometry or high-pressure liquid chromatography. The Idaho State Police Forensic Laboratory is excluded from this definition. After December 31, 2022, accepted laboratories also must be registered, or have attempted registration, with the U.S. Drug Enforcement Agency under the Controlled Substances Act, 21 CFR part 1301.13. ~~(3-15-22)~~( )

02. Acceptable Hemp THC Level for Licensed Producers. The total delta-9 tetrahydrocannabinol content of hemp on a dry weight basis, that, when reported with the measurement of uncertainty, produces a range that includes a result of three-tenths percent (0.3%) total tetrahydrocannabinol or less, as defined in the 2018 Farm Bill. ~~(3-15-22)~~( )

03. Department. The Idaho State Department of Agriculture. (3-15-22)

04. Entity. A corporation, general partnership, joint stock company, association, limited partnership, limited liability partnership, limited liability company, series limited liability company, irrevocable trust, estate, charitable organization, other similar organization, or an institution of higher education. (3-15-22)

05. Handler. A handler includes an owner, operator, landlord, or tenant who shares in the risk of manufacturing an end product and who is entitled to share in the product available for marketing from the farm or facility or would have shared had products been produced. A handler may also include, but is not limited to: labs, processing/manufacturing facilities, seed facilities, mobile conditioners or mobile processing/manufacturing facilities. A licensed handler may accept hemp from a licensed (state, Tribe, USDA, or country of origin) producer or handler, provided the procured hemp contains an acceptable THC level of three-tenths percent (0.3%) or less, may act as a broker for hemp, and may sell hemp to licensed producers or licensed handlers. All manufactured or end products must contain no detectable THC. ( )

0~~5~~6. **Harvest**. To cut, gather, take, or remove all or part of hemp plants growing in a lot for the purpose of distribution, disposal, cloning, handling, sale, or any other use. (3-15-22)

07. Hemp Products. All inhalable and/or ingestible hemp products intended for human ingestion or inhalation, excluding nonviable hulled hemp seed, hemp protein powder, or hemp seed oil. ( )

08. In-State Retailer. Any retailer with a physical, mobile, or online establishment within the State of Idaho that may offer products for in-person or online sale. ( )

09. Ingestible. Contents or substances taken into the body by swallowing, absorbing, or otherwise consuming. ( )

10. Inhalable. Contents or substances taken into the body by drawing air, vapor, fumes, gas, or smoke into the lungs through the nose or mouth. ( )

~~06~~11. **Key Participant**. A person who has direct or indirect financial interest in the entity producing or handling hemp, such as an owner or partner in a partnership. A key participant also includes persons in a corporate entity at executive levels. ~~(3-15-22)~~( )

~~07~~12. **License**. A hemp producer or hemp handler, or hemp retailer license issued by the Department. ~~(3-15-22)~~( )

~~08~~13. **Lot**. A contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout. Lots with multiple plantings will be considered separate lots. All lots listed on the application must be removed if no hemp is planted or undergo an inspection and harvest activity prior to the end

of the calendar year. ~~(3-15-22)~~( )

~~09~~14. **Measurement of Uncertainty**. The parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement. (3-15-22)

15. **Out-of-State Retailer**. Any retailer with a physical, mobile, or online establishment not within the State of Idaho that may offer products for in-person or online sale. ( )

~~10~~16. **Producer**. A producer includes an owner, operator, landlord, or tenant who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm or facility, or would have shared had the crop been produced. A producer includes a grower of seed and, if selling seed, may require a seed dealers license from the Department. A licensed producer may accept hemp from a licensed (state, Tribe, USDA, or country of origin) producer or handler, provided the procured hemp contains an acceptable THC level of three-tenths percent (0.3%) or less, may act as a broker for hemp, and may sell hemp to licensed producers or licensed handlers. ~~(3-15-22)~~( )

17. **Prohibited Cannabis Products**. Any product containing THC, with the exception of biomass pursuant to a producer license as defined by the 2018 farm bill. ( )

18. **Retailer**. A retailer includes an owner, operator, landlord, or tenant who shares in the risk of selling or distributing hemp products and who is entitled to share in the end hemp product available from marketing from the facility or would have shared had end hemp products been sold or distributed. A retailer or distributor may also include, but is not limited to: physical locations, booths, farmers markets, wholesale, online, digital, or mobile facilities with the intent to distribute and/or sell hemp products. ( )

19. **Site**. One continuous address containing all facilities in one general area. Any distance between facilities that qualifies as a separate address is regarded as a separate site. ( )

~~11~~20. **Total THC**. The sum of tetrahydrocannabinolic acid and delta-9 tetrahydrocannabinol. (3-15-22)

21. **Volunteer Hemp**. Hemp that was not intentionally planted by a licensed hemp producer and is the result of a previous year's planting or growing on its own from seed or roots of an intentionally planted hemp lot. Volunteer hemp, if not part of a licensed growing area, must be destroyed and reported to the Department, or added to the current license year. ( )

(BREAK IN CONTINUITY OF SECTIONS)

300. LICENSES.

01. Requirement. Any person or entity shall have an active hemp license from the Department for planting, propagating, producing, handling, ~~or~~ processing, storing, selling, or distributing hemp or hemp products in Idaho. ~~(3-15-22)~~( )

02. Application. An applicant for a producer or handler, or retail license must apply on a form prescribed by the Department. ~~(3-15-22)~~( )

a. Excluding retail applications, ~~A~~an applicant and any key participants must include in the application a criminal history report conducted as a fingerprint background check by the Idaho State Police or Federal Bureau of Investigation completed no more than sixty (60) days before the application submission. ~~(3-15-22)~~( )

b. The Department reserves the right to deny any application for a license. ( )

03. Annual Application Period and Fees. ~~The application period is September 1 through December 31 of each year for the next calendar year, or a late fee of two hundred fifty dollars ($250) applies to each late~~

~~application~~ All current license holders who possess hemp materials or hemp products must have a license in place or have hemp materials and hemp products properly disposed of by January 1 of the upcoming calendar year. All licenses, regardless of when issued, expire December 31 of the license year. Applications must be complete and include a nonrefundable application fee according to Subsection 301.01 of this rule. ~~(3-15-22)~~( )

a. The handler and retailer application period is September 1 through December 31 of each year for the next calendar year, or a late fee of two hundred fifty dollars ($250) applies to each late application. ( )

b. The producer application period is November 1 through March 31 of each year for the next/current calendar year, or a late fee of two hundred fifty dollars ($250) applies to each late application. ( )

04. Application Approval. An applicant will be notified when the application has been approved or denied. Upon notification of approval of a license application, the applicant must remit to the Department the appropriate license fees according to Subsection 301.01 of this rule. Upon receipt of payment of the license fee, the license will be issued. (3-15-22)

05. License Not Transferable. All licenses are non-transferable. (3-15-22)

06. Producer License. A producer license authorizes a person or entity to obtain and possess hemp seed for planting; to cultivate and harvest hemp; to transport their own hemp crop; to dispose of or remediate their own hemp; as well as possess and market plant parts. (3-15-22)

07. Handler License. A handler license authorizes a person or entity to obtain and possess hemp, including seed, for processing but not intended for the license holder's own cultivation. (3-15-22)

08. Retail License. A retail license authorizes a person or entity to obtain and possess (not manufacture) hemp products for the purpose of selling or distributing and not intended for the license holder's own consumption or use. All physical, online, digital, or distribution entities must possess an individual license for each location or site. ( )

0~~8~~9. Ineligibility. No license will be issued to an ineligible person or entity. (3-15-22)

a. A person who has had a hemp license revoked by the Department, USDA, another state, Indian nation, or U.S. territory is ineligible to apply for participation in the hemp program for a period of five (5) years from the date of revocation. (3-15-22)

b. A person who has been convicted of a felony relating to a controlled substance under federal law or the law of any state may not, before the tenth anniversary of the date of the conviction, hold a license, or be a key participant, or be a governing person of a business entity that holds a license unless the person was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before December 20, 2018. (3-15-22)

c. A person who materially falsifies any information contained in a license application to the Department, or submitted an application to the Department, USDA, another state, Indian nation, or U.S. territory with any materially false statements or misrepresentations is ineligible for a license. (3-15-22)

d. A person under the age of eighteen (18) years of age at the time the application is submitted to the Department is ineligible for a license. (3-15-22)

e. A person or entity producing or handling hemp with three (3) negligent violations in a five (5) year period is ineligible to ~~produce hemp~~ obtain a hemp license for a period of five (5) years from the date of the third (3rd) violation. Retail licensees with three (3) negligent violations within a five (5) year period will have their license revoked and may be referred to law enforcement. Any retail licensee with three (3) negligent violations within a five (5) year period that apply for a future license will be denied. ~~(3-15-22)~~( )

~~09~~10. License Expiration. A license is valid from January 1 until December 31 of each year, except for a license issued as a result of a late application which is valid from date of issuance until December 31 of that year.

(3-15-22)

10~~0~~1. License Amendment. Any change to the required information on an approved license requires a licensee to submit a license amendment on a form prescribed by the Department within ten (10) business days of the change. Changes may be subject to Subsection 301.01 of this rule. (3-15-22)

11~~2~~. Additional Responsibilities. All license holders must notify the Department of any theft of hemp materials~~, whether growing or not,~~ or hemp products within forty-eight (48) hours of discovery. ~~(3-15-22)~~( )

a. License Accessibility. License must be made available upon request or displayed in a prominent location. ( )

12~~3~~. Suspension. A hemp license may be suspended when a licensee has engaged in conduct violating hemp law or rule, or when a licensee failed to comply with a written order related to a negligent violation. (3-15-22)

a. A suspended license may be restored after a waiting period of one (1) year. (3-15-22)

b. Any person or entity whose license has been suspended may be required to comply with a corrective action plan to fully restore the license. (3-15-22)

13~~4~~. Revocation. A hemp license will be revoked if the licensee: (3-15-22)

a. Pleads guilty to, or is convicted of, any felony related to a controlled substance; or (3-15-22)

b. Made any materially false statement with regard to this rule to the Department with a culpable mental state greater than negligence; or (3-15-22)

c. Was found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence; or (3-15-22)

d. Was found to be handling and/or manufacturing prohibited cannabis products as the end product with a culpable mental state greater than negligence; or ( )

e. Was found to be selling, distributing, or transferring prohibited cannabis products with a culpable mental state greater than negligence; or ( )

~~d~~f. Negligently violated law or rule three (3) times in five (5) years. (3-15-22)

14~~5~~. No License For Official Duties. Department employees and law enforcement are not required to have a license for handling hemp in performance of official duties. (3-15-22)

301. FEES.

01. Licensing and Inspection Fees. Hemp program fees are as follows: (3-15-22)

Fee Type	~~Grower~~Producer	Handler	Retailer
Annual application	$100	$100	$100
Annual license	$500	$1,000	$1,000/site
Modification to application information	$~~250~~100	$~~500~~100	$100

Fee Type	~~Grower~~Producer	Handler	Retailer
Producer pre-harvest inspection and other inspections	$250/lot + $35/hour for travel to and from site + actual costs for shipping samples		
Handler annual site inspection and other inspections		$500/site + $35/hour for travel to and from site	
Retailer annual site inspection and other inspections			Included in license cost

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

a. Applicants seeking ~~to produce and handle~~ a hemp license may require ~~both~~ multiple license types. The annual application fee is charged only for ~~the first license type~~ one application if multiple applications are submitted within 24 hours. ~~(3-15-22)~~( )

b. Applicants seeking to handle and sell or distribute hemp products may require both license types. The annual application fee is charged only for one (1) application if multiple applications are submitted within twenty-four (24) hours. ( )

c. Applicants seeking to produce, handle, sell, and/or distribute hemp products may require all license types. The annual application fee is charged only for one (1) application if multiple applications are submitted within twenty-four (24) hours. ( )

d. Failure to pay fees associated with a license will result in the license being suspended and/or revoked. No future licenses shall be issued until all prior fees are rectified. ( )

02. Other Costs. Licensees pay the costs of background checks and required testing directly to the entity providing the service. (3-15-22)

302. – 399. (RESERVED)

~~**400. PRODUCER RECORDS.**~~

~~**01. Producer Records**. Producers shall maintain the following records for three (3) years and make them available during normal business hours for the Department to review at the location where hemp is being grown: (3-15-22)~~

~~**a.** All documents related to the information required in the license application; (3-15-22)~~

~~**b.** Source of hemp seed; (3-15-22)~~

~~**c.** Total acreage of industrial hemp planted, harvested, and disposed; (3-15-22)~~

~~**d.** Record of all handlers sold to and quantities sold to each entity; (3-15-22)~~

~~**e.** Variety and strain for each lot; (3-15-22)~~

~~**f.** All records, documents, and forms regarding the disposal or remediation of hemp; (3-15-22)~~

~~**g.** Copies of all records submitted to the Department, USDA, or law enforcement related to hemp, as well as any supporting documentation. (3-15-22)~~

~~02. Submission of Information to USDA. All license holders shall report to their local USDA FSA office consistent with USDA requirements. (3-15-22)~~

~~401. -- 499. (RESERVED)~~

~~500~~400. INSPECTION OF PRODUCERS.

01. Verification. Inspections may be scheduled by the Department to verify information provided by the licensee. Any growing sites that do not conform to the license must be destroyed or the license must be amended. (3-15-22)

02. Access. The Department shall have access to hemp sites and may enter property where hemp is planted, stored, propagated, produced, or handled for the purpose of inspections, sample collections, testing, or investigation pursuant to Idaho Code and this rule. (3-15-22)

03. Harvest Notification. A producer license holder must submit a sample request form to the Department at least thirty-five (35) days prior to the expected harvest date. (3-15-22)

04. Procedure. The sampling procedure is determined by the Department's Sampling Protocol. Inspections and sampling are subject to Subsection 301.01 of this rule. (3-15-22)

05. Inspection and Sampling. ISDA will conduct inspections and collect samples of each lot not more than thirty (30) days before the hemp is harvested. The industrial hemp may be harvested only after the official sample is collected. The producer licensee or a key participant must be present at the inspection. (3-15-22)

06. Harvest. The license holder will harvest the crop no more than thirty (30) days following the date of sample collection by the Department. (3-15-22)

a. If the licensee fails to complete harvest within thirty (30) days of sample collection, secondary samples of each lot to be harvested must be collected by the Department and submitted for testing. (3-15-22)

i. The license holder must notify the Department of a delay in harvesting by submitting a request form for subsequent sample collection from each lot to be harvested. Additional sampling is subject to Subsection 301.01 of this rule. (3-15-22)

07. Lots Not Commingled. Harvested hemp lots may not be commingled with hemp from other harvested lots or other material. (3-15-22)

08. Movement. No hemp may leave the control of the producer licensee until the licensee receives notification from the Department that the lot complies with this rule. (3-15-22)

09. Producer Records. Producers shall maintain the following records for three (3) years and make them available during normal business hours for the Department to review at the location where hemp is being grown: ( )

a. All documents related to the information required in the license application; ( )

b. Source of hemp seed; ( )

c. Total acreage of industrial hemp planted, harvested, and disposed; ( )

d. Record of all handlers sold to and quantities sold to each entity; ( )

e. Variety and strain for each lot; ( )

f. All records, documents, and forms regarding the disposal or remediation of hemp; and ( )

g. Copies of all records submitted to the Department, USDA, or law enforcement related to hemp, as well as any supporting documentation. ( )

10. Submission of Information to USDA. All license holders shall report to their local USDA FSA office consistent with USDA requirements. ( )

501401. TRANSPLANTING.

01. Transplanting. To transplant hemp, a producer licensee must submit transplant information with his or her license application or submit a lot change request on a form provided by the agency. (3-15-22)

02. Lots Not Combined. No license will combine multiple transplantation lots into single cultivation lots. ( )

023. Lots Not Divided. No licensee will divide a lot from the initial area of cultivation for transplant into more than one transplantation area for on-farm production. (3-15-22)

034. Transplant Sales. Selling hemp transplants for wholesale or retail requires a producer license and a handler license. (3-15-22)

502. – 599. (RESERVED)

600500. INSPECTION OF HANDLERS.

01. Handler Inspection. The Department will inspect all handler locations annually. The licensee or a key participant must be present at the scheduled inspection. The Department may perform random inspections during normal business hours. A sample may be pulled at an inspection. Scheduled handler inspections are subject to Subsection 301.01 of this rule. (3-15-22)

02. Sampling. The Department may collect samples during inspection. ( )

03. Acceptable THC Limits for Handler. All handlers may receive raw industrial hemp with up to three-tenths percent (0.3%) of Delta 9 THC. All manufactured or end products must contain no detectable THC of any kind. ( )

04. Follow-Up Inspections. The Department may conduct follow-up inspections or to investigate complaints. ( )

025. Handler Duties. (3-15-22)

a. The licensee may not acquire or accept hemp from any source other than a person licensed by the Department, the USDA, or a state or tribe with a hemp plan approved by USDA. (3-15-22)

b. Licensed handlers shall not sell, offer, or transfer within Idaho any hemp products not in compliance with Section 37-2701, Idaho Code. (3-15-22)

036. Handler Records. Handlers shall maintain the following records for three (3) years and make them available during normal business hours for the Department to review at the facility where hemp is being handled; (3-15-22)

a. Records of all hemp crop acquisitions with the corresponding producer name, producer address, copy of producer license number, quantity purchased, and transaction date; (3-15-22)

b. Records of all unprocessed hemp sold including name, address, and license number of the person or entity to whom the product was sold in addition to the quantity sold and transaction date; (3-15-22)

c. Records of hemp products made by licensee including description of each type of product, quantity sold, and date of distribution; and (3-15-22)

d. All records regarding the disposal of products exceeding the acceptable hemp THC level. (3-15-22)

501. – 599. (RESERVED)

600. INSPECTION OF RETAILERS.

01. Retail Inspection. The Department will inspect all licensed retailers annually. Any staff member may be present at the time of inspection. The Department may perform random inspections during the licensee's reasonable business hours. ( )

02. Inspection and Sampling. The Department will conduct inspections and may collect samples of retail products. Law enforcement may be notified of prohibited cannabis products. ( )

03. Access. The Department shall have access to physical and digital sites and may enter where hemp products are displayed, stored, sold, distributed, or being demonstrated for the purpose of inspections, sample collections, testing, or investigation pursuant to Idaho Code and this rule. ( )

04. Notification of Law Enforcement. Law enforcement may be notified of prohibited cannabis products. ( )

05. Retailer Duties. License retailers shall not sell, offer, trade, distribute, or transfer within Idaho any prohibited cannabis products. ( )

06. Retailer Records. Retailers shall maintain the following records for three (3) years and make them available during reasonable business hours for the Department to review, where hemp products are being sold or distributed. ( )

a. Records of all hemp product sales, acquisitions, and/or products transferred. ( )

b. All records regarding the disposal or return of prohibited cannabis products. ( )

07. Follow-Up Inspections. The Department may conduct follow-up inspections or to investigate complaints. ( )

601. – 699. (RESERVED)

700. SAMPLES AND TESTING.

01. Producer Sampling Protocol. Sampling will be conducted according to the Department's Sampling Protocol. The Department will send samples to an accepted laboratory selected by the license holder at the time of sampling. The licensee bears the full cost of laboratory testing. ~~(3-15-22)~~( )

02. Laboratory Testing. An accepted laboratory must use appropriate and validated methods and procedures for all testing activities and evaluate the measurement of uncertainty. Samples must be tested using post-decarboxylation or a similarly reliable method by which the total THC concentration level reported accounts for the conversion of THCA into THC. An accepted laboratory will analyze regulatory samples according to the Department's Testing Protocol and the following steps: (3-15-22)

a. Maintain the chain of custody of each sample; (3-15-22)

b. Retain the sample for a minimum of thirty (30) business days from the sample submission date; (3-15-22)

c. Not commingle hemp products or lots from one (1) product or lot with any other hemp ~~from any~~

~~other lot~~ products or lots; ~~(3-15-22)~~( )

d. Send the producer test results of official samples to the Department, license holder and USDA no later than the fifteenth business day from the sample submission date; and ~~(3-15-22)~~( )

e. Determine and report total delta-9 THC concentration level on a dry weight basis, and the measurement of uncertainty must be estimated and reported with the producer test results. ~~(3-15-22)~~( )

f. Retail test results of official samples will be submitted to the Department. ( )

03. Handler and Retailer Sampling Protocol. Sampling may be conducted at each entity or site. The Department will submit samples to the Department-selected laboratory. All sampling and lab costs are subject to 301.01 of this rule. ( )

0~~3~~4. Test Results. Any test result of a sample showing, with acceptable quality control passing, that the total THC content of the sample exceeds the acceptable hemp THC level shall be conclusive evidence that hemp from the lot represented by the sample contains a THC concentration in excess of that allowed. (3-15-22)

a. If the results of a test conclude that the THC levels of a sample exceeds the acceptable hemp THC level, the laboratory will promptly notify the producer, the Department, and the USDA. (3-15-22)

0~~4~~5. ~~Holding for~~ Awaiting Producer Test Results. No hemp may be transferred or enter the stream of commerce until the license holder is notified that the hemp lot sampled and tested is compliant with an acceptable THC level when the application of the measurement of uncertainty is applied. ~~(3-15-22)~~( )

0~~5~~6. Retesting. A license~~d holder~~ producer may request a retest of the original sample within five (5) days from the date the license holder receives notification from the Department of the results of the first test. ~~(3-15-22)~~( )

a. Retests must be performed by the laboratory that conducted the initial test. (3-15-22)

b. The laboratory must use the original sample used in the first test for the retest. (3-15-22)

c. The results of the retest are final. (3-15-22)

07. Handler and Retail Test Results. Any test result of a sample showing, with acceptable quality control passing, that the total THC content of the sample exceeds a non-detectable THC level, shall be conclusive evidence the hemp product lot, batch, date, or identifying factor represented by the sample contains a THC concentration in excess of that allowed and is considered a prohibited cannabis product. ( )

701. – 799. (RESERVED)

800. PRODUCER DISPOSAL.

01. Hemp Above the Acceptable Hemp THC Level for Producer. No more than five (5) calendar days after notification that material from a hemp lot has tested above the acceptable THC level, the licensee must notify the Department of the licensee's decision to either destroy or remediate the entire non-compliant hemp lot and by which method according to the Department's Disposal and Remediation Protocol. ~~(3-15-22)~~( )

02. Disposal. The licensee must dispose of non-compliant hemp with chemical or mechanical destruction to render the material non-retrievable, non-ingestible, and unfit to enter the stream of commerce. (3-15-22)

03. Remediation. Lots may be remediated according to the Department's Disposal and Remediation Protocol. (3-15-22)

a. Remediated hemp will be resampled and retested according to Subsection 500.04 and Section 700

of this rule. Remediated hemp that fails the re-test must be destroyed and is not eligible for additional remediation efforts. (3-15-22)

04. Verification. The Department must inspect and document disposal or remediation of non-compliant hemp. (3-15-22)

05. Other Producer Hemp Disposal. Disposal is required for the any of the following; ~~(3-15-22)~~( )

a. Hemp plants located in an area that is not licensed (to include volunteer hemp), ~~(3-15-22)~~( )

b. Hemp plants not accounted for in required reporting, (to include volunteer hemp) or ~~(3-15-22)~~( )

c. Hemp lots that have been destroyed due to pests, weeds, disease, poor stand, natural disaster, or a weather event such as a flood or hail. (3-15-22)

06. Reporting. All hemp disposed of, for any reason, must be reported to and verified by the Department and may be subject to Subsection 301.01 of this rule. (3-15-22)

07. Costs. All costs for disposal, remediation, and related activities will be paid by the license holder or land owner. (3-15-22)

08. USDA Notification. The Department will provide ~~to~~ the USDA, licensed producer information about non-compliant plants, sites, and related test results. ~~(3-15-22)~~( )

801. – 899. (RESERVED)

900. VIOLATIONS.

01. Sale. It remains unlawful to offer for sale any prohibited cannabis products. ( )

0~~1~~2. Negligent Acts. Negligent acts include: (3-15-22)

a. Failure to provide an accurate legal description of the land or site where hemp ~~is~~ or hemp products are produced, handled, sold, or distributed; ~~(3-15-22)~~( )

b. Failure to obtain a license; ~~or~~ ~~(3-15-22)~~( )

c. ~~Production~~Growing of hemp exceeding the acceptable THC level of three-tenths percent (0.3%), excluding hemp grown for the purpose of producing grain or fiber grown to the federal limit of one percent (1%), and/or the hemp producer made no reasonable effort to grow within the acceptable THC limits. ~~(3-15-22)~~( )

d. Hemp grown with THC in excess of one percent (1%); or ( )

e. Processing or manufacturing of hemp products lab tested and found to exceed the acceptable THC level, also known as prohibited cannabis products. ( )

0~~2~~3. Licensed Producers ~~holders~~ shall not be subject to more than one (1) negligent violation per calendar year. ~~(3-15-22)~~( )

0~~3~~4. Producer and Handler Corrective Actions. Upon any determination that a negligent act related to the growth or handling of hemp has occurred, the Department will institute a corrective action plan which must include: ~~(3-15-22)~~( )

a. A reasonable date to correct the negligent act; and (3-15-22)

b. A requirement to periodically report to the Department regarding compliance with the corrective action plan for a period of not less than two (2) consecutive calendar years. (3-15-22)

04~~4~~5. **Agency Inspection**. The Department will conduct inspections to determine if the corrective action plan was implemented. (3-15-22)

05~~5~~6. **Not Subject to Criminal Enforcement**. As a result of a negligent violation, a ~~licensee~~ licensed producer is not subject to criminal enforcement action as defined in the 2018 farm bill. ~~(3-15-22)~~( )

06~~6~~7. **Non-negligent Violations**. Violations with a culpable mental state greater than negligence, including knowingly growing hemp containing a delta-9-THC concentration that exceeds three-tenths percent (0.3%) on a dry weight basis will be reported by the Department to the Idaho State Police and the U.S. Attorney General. (3-15-22)

07~~7~~8. **Penalties and Procedure**. Penalties, including license suspension or revocation, and due process procedures are governed under Section 22-1705(5), Idaho Code, and the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code. (3-15-22)

a. Any person who violates or fails to comply with the rules promulgated under this chapter may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars ($10,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other department administrative action. A political subdivision of the state may request the county prosecuting attorney to bring a civil action to enforce these rules. ( )

08. Handler and Retail Licensees Subject to Criminal Enforcement. All hemp products and prohibited cannabis products have been and will continue to be subject to law enforcement. ( )

901. – 999. (RESERVED)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-2601 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 71-111, 71-121, 71-232, 71-233, 71-236, 71-241, and 71-408, Idaho Code.

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

Tuesday, October 20, 2026
2:00 p.m. (MT)

In Person:
Idaho State Department of Agriculture
2270 Old Penitentiary Road, Boise, ID 83712

Virtual:
https://teams.microsoft.com
Meeting ID: 297 181 480 671 334
Passcode: Mg3uv6om
Dial in by phone
+1 208-985-2810,,477151912# United States, Boise
Find a local number
Phone conference ID: 477 151 912#
Join on a video conferencing device
Tenant key: idahogov@m.webex.com
Video ID: 113 371 689 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 scope of this rulemaking will focus on the fee structures contained within this rule chapter. The Weights and Measures program is responsible for ensuring compliance with the requirements and standards found in the authorizing statutes to ensure consistency and accuracy in the weights and measuring devices found throughout everyday commerce in Idaho. Such devices include fuel pumps and scales used to measure and distribute goods.

The program is currently operating with the same number of full-time positions as it did in 1979. Program staff inspected 7,700 devices in 1979, and that number has increased to over 38,000 devices in FY2025. The current fees are 66% below the national average, generating $535,000 in annual revenue. The fee structure needs to be stabilized and matched to the current real costs of the program, which include personnel costs and capital replacement of specialized equipment and vehicles necessary to implement the program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Proposed increases on devices and metrology fees are intended to match inflation since the last fee increase, which occurred decades ago. The specific increases are described in Tables 1-A, 1-B and Sections 015, 016, 100 and 450 of the proposed rule.

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

Based off recent trends of licensing data the Department anticipates the revenue generated from the fee increases to add an estimated $747,00.00 to the weights and measures dedicated fund. These funds will be used to fund the capital replacement and maintenance of specialized equipment, lab testing, vehicles, as well as the personnel that operate the equipment necessary to perform annual tests and inspections for accuracy on over 38,000 scales and measuring devices used in commerce throughout the state.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol. 26-7, page 39-40.

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 referenced NIST Handbook 44 and Handbook No. 133 have been updated to the 2026 edition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator – Division of Animal Industries at (208) 332-8614.

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 28, 2026.

DATED this 27th day of August, 2026.

Scott R. Leibsle DVM
State Veterinarian/Administrator
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8614
Email: scott.leibsle@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 02-0214-2601
(Only Those Sections With Amendments Are Shown.)

02.02.14 – RULES FOR WEIGHTS AND MEASURES

004. INCORPORATION BY REFERENCE.

01. Required Reference Materials. The 2025~~5~~6 edition of Handbook No. 130 of the National Institute of Standards and Technology (NIST), United States Department of Commerce, "Uniform Laws and Regulations in the Areas of Legal Metrology and Fuel Quality," and NIST Handbook 44 "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," (Published December, 2024~~5~~) hereby incorporated by reference, is the specifications, tolerances and other technical requirements for commercial weighing and

measuring devices, unless otherwise stated in these rules. ~~(7-1-26)~~( )

02. Required Reference Materials for Checking Prepackaged Commodities. The 2025~~5~~6 edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," (Published ~~January 10~~ December, 2025) hereby incorporated by reference, is the authority in checking packaged commodities, unless otherwise stated in these rules. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

012. LICENSE REQUIRED FOR COMMERCIALLY-USED WEIGHING OR MEASURING INSTRUMENT OR DEVICE.
Weighing or measuring instruments or devices used for commercial purposes in the State of Idaho must be licensed annually. (3-15-22)

01. Annual License. No person may operate or use for commercial purposes within the state any weighing or measuring instrument or device specified in Section 71-113, Idaho Code, that is not licensed in accordance with this rule. (7-1-26)

02. Specific Device. Any license issued applies only to the instrument or device identified by Device Code, as listed in TABLE 1-A, and rated capacity on the application for license. ~~The license is applicable to an equivalent replacement for the original instrument or device, within the annual license period.~~ ~~(3-15-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

015. LICENSE RENEWALS.
Any device or instrument will be considered rejected if the license for that device or instrument is not renewed thirty (30) days after expiration. A person failing to pay the annual license fee after forty-five (45) days following the expiration date, forfeits the right to use the instrument or device for commercial purposes, and ~~the~~ may result in the issuing of a stop-use order for the instrument or device ~~may be taken out of service~~ by the ISDA ~~Bureau of Weights and Measures (Bureau)~~ until the license fee and a twenty-five dollar ($25) late fee per device is paid. ~~(7-1-26)~~( )

016. MAXIMUM AND MINIMUM LICENSE FEE SCHEDULE FOR COMMERCIALLY-USED WEIGHING AND MEASURING INSTRUMENTS AND DEVICES.
The annual license fee for instruments and devices is based on manufacturer's rated capacity. The minimum annual license fee for commercially used instrument and device types is ~~twelve~~ one hundred twenty dollars ($120) ~~when licensing a single device~~ to cover the cost of device inspection.

TABLE 1-A DEVICE FEES

DEVICE CODE	KEY	FEE ~~(Not to Exceed)~~
A	Scales ≤ 50 lbs	$~~6~~20.00
B	Scales > 50 ≤ 1,159 lbs	$~~12~~30.00
C	Scales ≥ 1,160 ≤ 7,499 lbs	$~~24~~50.00
D	Scales ≥ 7,500 ≤ 59,999 lbs	$~~100~~175.00
E & F	Scales 60,000 lbs or more	$~~100~~175.00
G	Motor-fuel device < 20 gpm	$~~6~~20.00
H	Meter ≥ 30 < 150 gpm	$~~33~~50.00

TABLE 1-A DEVICE FEES		
DEVICE CODE	**KEY**	**FEE- ~~(Not to Exceed)~~**
I	Meter ≥ 150 gpm	$~~40~~65.00
~~J~~	~~LPG dispenser~~	~~$40.00~~
J K & L	LPG temperature compensated	$~~60~~80.00
M	Cordage or Fabric meters	$~~5~~20.00
N	Natural gas motor fuel devices	$~~60~~75.00
O	Bulk oil meter	$~~35~~50.00
P	Meter > 20 ≤ 30 gpm or fuel additive metering devices	$~~10~~20.00

TABLE 1-B METROLOGY LAB FEES		
WEIGHT CLASS	**KEY**	**FEE (Not to Exceed)**
2, 3, S1, F1, F2	Weights 0-5 kg / 0-10 lbs and > 5 kg / > 10 lbs	$50.00 each
	Weights > 5 kg / > 10 lbs	$80.00 each
1, E1, E2, M, S	Weights 0-3 kg / 5 lbs and > 3 kg / > 5 lbs	$60.00 each
	Weights > 3 kg / > 5 lbs	$200.00 each
M1, M2, M3, 4, 5, 6, 7, F, P, Q, T	Weights 0-3 kg / 9 lbs	$20.00 each
	Weights 4 kg / 10-160 lbs	$60.00 each
	161 lbs – 3000 lbs	$150.00 each
	Weight Carts	$250.00 each
	Provers <100 gal	$750.00 each
	Provers >100 gal	$1000.00 each
	5 gal Test Measures	$80.00 each
Hourly Rate (Minimum of one hour)		$175.00/hour
REGISTERED SERVICE PERSON FEES		
Registered Service Person License Fee		$150.00 each

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

017. VOLUNTARY INSPECTION OF WEIGHING AND MEASURING INSTRUMENTS ~~AND~~, DEVICES, RE-EXAMINATION OF REJECTED DEVICES, AND FEES.
In addition to commercially used weighing and measuring instruments and devices, the ~~Bureau~~ ISDA, at the request of an owner or user thereof, may inspect and test non-commercial weighing or measuring instruments or devices to ascertain if they are correct. Any entity making such special request, or a re-examination of a rejected device, must pay the ~~Bureau~~ ISDA the cost of the inspection as listed in Section 016 and 100. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

100. CHARGES FOR SPECIAL REQUEST TESTING ~~OR~~, EXAMINATION, OR RE-EXAMINATION.

01. Mileage Charges. (3-15-22)

a. Current state mileage rate for car travel. (7-1-26)

b. ~~Seventy~~Ninety-five cents ($.~~7~~95) a mile for pickup and prover. ~~(3-15-22)~~( )

c. Two dollars and ~~fifty~~ seventy-five cents ($2.~~50~~75) a mile for heavy capacity scale trucks. ~~(3-15-22)~~( )

02. Fee Collection. Such fees will be collected to and from ~~place where working and back~~ staff assigned workstation. Where more than one (1) request is to be handled on same trip, the mileage will be prorated between the parties requesting the service. ~~(3-15-22)~~( )

03. Personnel Charges. There will also be an hourly personnel charge of ~~thirty~~ fifty dollars ($~~30~~50) per hour per person for special request testing, chargeable during the time of the actual testing and examination of devices and for driving time. ~~(3-15-22)~~( )

101. -- ~~99~~44~~9~~9. (RESERVED)

450. LICENSES FOR SERVICE PERSONS FOR COMMERCIAL WEIGHING AND MEASURING DEVICES.

01. Application. A registered service person must apply for a license on a form prescribed by the Department. ( )

a. The ISDA reserves the right to deny any application for a license. ( )

02. Annual Application Period and Fees. Registered service persons must have a license in place in order to place a commercial device into service. All licenses, regardless of when issued, expire December 31 of the license year. Applications must be complete and include a non-refundable application fee according to Section 016 of these rules. ( )

a. The application period is November 1 through December 31 of each year for the next calendar year, a late fee of two hundred fifty dollars ($250) will be applied to each late license application for previously licensed registered service persons. ( )

03. Application Approval. An applicant will be notified when the application has been approved or denied. Upon notification of approval of a license application, the applicant must remit to the ISDA the appropriate license fees according to Section 016 of these rules. Upon receipt of payment of the license fee, the license will be issued. ( )

04. License Not Transferable. All licenses are non-transferable. ( )

05. Registered Service Person License. A licensed registered service person authorizes an individual person to place into service any commercial weighing and measuring devices. ( )

06. NTEP. National Type Evaluation Program. ( )

07. Placed Into Service. The placement of a new NTEP device into commercial use or placing an NTEP device back into commercial use after being rejected by the ISDA. ( )

08. Ineligibility. No license will be issued to an ineligible person. ( )

a. A person who does not possess valid equipment necessary to certify commercial weighing and measuring devices. ( )

b. A person who materially falsifies any information contained in a license application to the ISDA, or submits an application to the ISDA with any materially false statements or misrepresentations, is ineligible for a license. ( )

09. License Expiration. A license is valid from January 1 until December 31 of each year, except for a license issued as a result of a late application, which is valid from date of issuance until December 31 of that year. ( )

10. Additional Responsibilities. Registered service person must possess the appropriate certifications and equipment. ( )

a. At the time of applying, the registered service person must provide a copy of all intended equipment to be used by the licensee. The equipment certification date must not exceed more than two (2) years at the time of applying. ( )

11. Suspension or Revocation of a License. A registered service person's license may be suspended or revoked if the licensee violates the following three (3) times within a one (1) year period: ( )

a. If the registered service person is found to be without acceptable equipment. ( )

b. If the registered service person is found to negligently certify and place equipment into service. ( )

c. If the registered service person places devices into service that are found to be significantly out of tolerance. ( )

d. If the registered service person places a non-NTEP device into service. ( )

e. A registered service person with a suspended license will be ineligible to obtain a license for a period of one (1) year from the date of the third violation. ( )

f. A registered service person with three (3) suspended licenses over a three-year period may be ineligible for a future license. ( )

12. Violations. Violations may include: ( )

a. Any licensee found to exceed three (3) suspended licenses over a three-year period. ( )

b. Any person who violates or fails to comply with the rules promulgated under this chapter may be assessed a civil penalty by the ISDA or its duly authorized agent of not more than ten thousand dollars ($10,000) for each offense and shall be liable for reasonable attorney's fees. Assessment of a civil penalty may be made in conjunction with any other ISDA administrative action. A political subdivision of the state may request the county prosecuting attorney to bring a civil action to enforce these rules. ( )

451. -- 649. (RESERVED)

650. RURAL FUEL EXEMPTION.
Exemptions. Fuel dispensers located in a rural area may request an exemption. Devices for consideration must be licensed, but shall not be required to have an active Certificate of Conformance; these devices must have had an active Certificate of Conformance at one time and meet the required tolerance for the device. ( )

651. -- 999. (RESERVED)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

DOCKET NO. 02-0405-2601

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 37-303, 37-402, 37-405, and 37-516 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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 scope of this rulemaking was to implement the amendments to the authorizing statute approved by the Legislature in H.662 during the 2026 Session. This amendment provided for additional testing of milk by the department, and the rulemaking further defined the process by which testing will be facilitated for additional quality parameters. The rulemaking also incorporated by reference the 2025 edition of the Grade A Pasteurized Milk Ordinance; 2025 edition of the Evaluation of Milk Laboratories reference document; 2025 Methods of Making Sanitation Ratings of Milk Shippers reference document and 2025 edition of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration reference document.

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

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol. 26-7, page 41-42.

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:

These documents are recognized nationally as the primary reference and regulatory documents related to Grade A milk and milk products. Incorporating the most current version of the documents promotes uniformity throughout the United States dairy industry and the U.S. Food and Drug Administration.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator – Division of Animal Industries at (208) 332-8614.

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 28, 2026.

DATED this 26th day of August, 2026.

Scott R. Leibsle DVM
State Veterinarian/Administrator
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8614
Email: scott.leibsle@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0405-2601
(Only Those Sections With Amendments Are Shown.)

02.04.05 – RULES GOVERNING GRADE A MILK AND MANUFACTURE GRADE MILK

104. INCORPORATION BY REFERENCE.
All Grade A Milk and Milk Products shall comply with the provisions set forth in the following documents incorporated by reference in this Subchapter A only: (3-15-22)

01. Grade "A" Pasteurized Milk Ordinance. The Grade "A" Pasteurized Milk Ordinance, ~~2023~~ 2025 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, except the bacterial limit standard and the somatic cell count standard in Section 7 of the document. Available online at ~~https://www.fda.gov/media/180975/download?attachment~~ https://ncims.org/wp-content/uploads/2026/06/2025-PMO.pdf?attachment. ~~(7-1-25)~~( )

02. Evaluation of Milk Laboratories. The Evaluation of Milk Laboratories, ~~2023~~ 2025 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at ~~https://www.fda.gov/media/180977/download?attachment~~ https://ncims.org/wp-content/uploads/2026/07/2025-EML.pdf. ~~(7-1-25)~~( )

03. Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures. The Methods of Making Sanitation Ratings of Milk Shippers, and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufactures, ~~2023~~ 2025 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration. Available online at ~~https://www.fda.gov/media/180976/download?attachment~~ https://ncims.org/wp-content/uploads/2026/07/2025-MMSR.pdf. ~~(7-1-25)~~( )

04. Interstate Milk Shipments. The Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ~~2023~~ 2025 revision, published by the U. S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, and the National Conference on Interstate Milk Shipments. Available online at ~~https://www.fda.gov/media/180974/download?attachment~~ https://ncims.org/wp-content/uploads/2026/07/2025-Procedures.pdf. ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

271. AUDITING PAYMENTS FOR MILK OR CREAM.
The Department shall initiate an audit of samples and test results of milk and cream, tested in accordance with the most current edition of the "Standard Methods for the Examination of Dairy Products", at the request of a buyer or seller. The audit shall be conducted to determine the accuracy of payments for milk and cream by the buyer to the seller where price is based on or determined by the milkfat, protein, lactose, solids nonfat, or somatic cell counts, or by any other quality parameter or other analyte, of the milk or cream. Any such audit shall be according to the following procedures: ( )

01. Commencement of Audit. The Department shall commence an audit upon receipt of a written request from a buyer or seller. All audit requests must be submitted to the Department within sixty (60) days of the collection of any sample that is disputed. The scope of any audit is limited to the sixty (60) days preceding the date of the request and the time period during which the audit is conducted. ( )

02. Notifications and Responses to an Audit. The Department shall notify all interested parties (buyer/seller) of the audit request within five (5) business days of receipt. The party responding to the audit request is subsequently required to file an answer with the Department within ten (10) business days after receipt of the request. The answer to the audit request shall then be served upon the buyer and seller by the Department within five (5) business days of receipt. ( )

03. Split Samples. During the audit process, the buyer and seller have the right to request and receive splits from the same samples for independent testing or provide split sample results that were previously tested. ( )

04. Audit Committee. The Department shall refer the request for audit, and the answer, to a three (3) person audit committee. No member of the audit committee may have a financial or pecuniary interest in the outcome of the audit. Any members of the audit committee not employed by the State of Idaho shall be compensated as provided in section 59-509 (b), Idaho Code. The three (3) member committee shall select a chairman from its membership who will conduct deliberations of the audit committee and direct all of its other activities. Upon request, the Department may provide administrative support to the audit committee. The audit committee shall consist of the following individuals: ( )

a. A representative selected by the president of the Idaho Dairymen's Association; ( )

b. A representative selected by the president of the Intermountain Milk Processors Association; and ( )

c. The director or the director's designee from within the Department. ( )

05. Audit Committee Investigation and Report. The audit committee shall complete a full investigation of the audit request and report its findings to the parties within thirty (30) days of the responding party's answer, or such later date as agreed by the buyer and seller. The audit committee shall issue a written report of its investigation that includes findings regarding the test sample results and the amount of discrepancy, if any, in payments for milk and cream by the buyer to the seller. The written report shall be served on the buyer and seller upon its issuance. The audit committee's report shall be deemed the final action of the Department. ( )

06. Investigatory Authority. In the course of its investigation, the audit committee may: ( )

a. Examine the buyer and the seller on all matters which the audit committee considers relevant. ( )

b. Submit milk or cream samples for testing by the state laboratory or state-designated laboratory, with said samples to be collected by a department-licensed bulk milk hauler. ( )

c. Hold non-public meetings at such time and place as the chairman may direct upon reasonable notice to all parties. ( )

d. Upon the chairman's request, call any person in for comments knowledgeable on any matter under

investigation. ( )

07. Non-Waiver. The rights and procedures provided to the audit process described by this rule may not be altered or varied by agreement, contract or otherwise. ( )

271~~-~~2. -- 279. (RESERVED)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

DOCKET NO. 02-0609-2601

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 22-1907 and 22-2403 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

The Idaho Association of Weed Control Superintendents have petitioned the department to add Spiny cocklebur (*Xanthium spinosum*) to the Noxious Weed list contained in this rule chapter. Spiny cocklebur is a non-native plant that poses invasive tendencies and a threat to Idaho agriculture and native habitats. It is currently listed as a noxious weed in Washington, Oregon, and New Mexico. It has been identified in Idaho and adding it to Idaho's Noxious Weed list will ensure that the state and counties have the authority to treat it as noxious for the purposes of treatment and control.

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

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

The agency does not anticipate any fiscal impact as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol. 26-7, page 43-44.

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:

A petition was received from stakeholders to update the reference to the most current version of the North American Invasive Species Management Association (NAISMA) Weed Free Products Forage Minimum Standards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dr. Scott Leibsle, Administrator – Division of Animal Industries at (208) 332-8614. 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 28, 2026.

DATED this 26th day of August, 2026.

Scott R. Leibsle DVM
State Veterinarian/Administrator
Division of Animal Industries
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8614
Email: scott.leibsle@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0609-2601
(Only Those Sections With Amendments Are Shown.)

02.06.09 – RULES GOVERNING INVASIVE SPECIES AND NOXIOUS WEEDS

110. DEFINITIONS.
In addition to the definitions found in Section 22-1904 and 22-2005, Idaho Code, the following definitions apply in the interpretation and enforcement of Subchapter A only: (3-15-22)

01. **Acts**. Title 22, Chapter 19, Idaho Code, the "Idaho Invasive Species Act of 2008." (3-15-22)

02. **Aquatic Invertebrate Invasive Species**. Those species listed in Section 140. (3-15-22)

03. **Control**. The abatement, suppression, or containment of an invasive species or pest population. (3-15-22)

04. ~~**Dreissenia**~~**Dreissena Infested Waterbody**. Body of water designated by the United States Geological Survey, http://nas.er.usgs.gov/taxgroup/mollusks/zebramussel/, or the Director as having a population of any life stage of ~~Dreissenia~~ Dreissena mussels. ~~(3-15-22)~~( )

05. **Early Detection/Rapid Response**. Finding invasive species during the initial stages of colonization and then responding within ten (10) days. (3-15-22)

06. **Energy Crop Invasive Species**. Non-native plant grown to harvest for use in making biofuels, such as bioethanol, or combusted for its energy content to generate electricity or heat. Energy Crop Invasive Species are non-native plants that are cultivated for the purpose of producing (non-food) energy. (3-15-22)

07. **Equipment**. An article, tool, implement, or device capable of carrying or containing: (3-15-22)

a. Water; or (3-15-22)

b. An invasive species. (3-15-22)

08. **Facility**. Any place, site or location or part thereof where a species listed as invasive pursuant to Subchapter A are found, handled, housed, held, planted, or otherwise maintained for purposes governed by a possession, production, or transport permit issued pursuant to Subchapter A and includes, but is not limited to all fields, plats, buildings, lots, structures, and other appurtenances and improvements on the land. (3-15-22)

09. **Possession**. The act of cultivating, importing, exporting, shipping or transporting a listed invasive species in Idaho. Possession does not include the act of having, releasing or transporting a listed invasive species through circumstances beyond individual control, including but not limited to infestations in a water supply system, infestations resulting from natural spread of the species or some other acts of nature. (3-15-22)

10. **Trap Crop Invasive Species**. Non-native plant species planted for purposes of controlling or eradicating a Plant Pest, as defined in the Idaho Plant Pest Act of 2002. (3-15-22)

11. **Water Body**. Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank and fountain. (3-15-22)

12. **Water Supply System**. A system used to treat, store, convey, or distribute water for irrigation, industrial, waste water treatment, residential, or culinary use. A Water Supply System includes a pump, canal, ditch,

regulating impoundment, in-canal forebay, pipeline, or associated wetland and water quality improvement project, but does not include a Water Body as defined in Subsection 110.11. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

130. EARLY DETECTION AND RAPID RESPONSE AQUATIC INVERTEBRATE INVASIVE SPECIES.

01. Statewide EDRR AIIS List. If any of the species listed in the following table are found to occur in Idaho, they shall be reported to the Department immediately. Positive identification will be made by the Department or other qualified authority as approved by the Director. Subsections 130.02 through 130.05 are applicable to EDRR AIIS only and not to other invasive species listed in Sections 140 through 148.

Early Detection Rapid Response Aquatic Invertebrate Invasive Species (EDRR AIIS) List	
Common Name	**Scientific Name**
Quagga Mussel	*Dreissena bugensis*
Zebra Mussel	*Dreissena polymorpha*
Golden Mussel	*Linoperna forunei*

(7-1-26)

02. Transporting EDRR AIIS Over Public Roads. No person may transport Equipment or any Conveyance containing EDRR AIIS over public roads within the state of Idaho without first being decontaminated. (3-15-22)

03. Contaminated Conveyances in Idaho Waters. No person may place any EDRR AIIS contaminated Equipment or Conveyance into any Water Body or Water Supply System in the state of Idaho. (3-15-22)

04. Firefighting Equipment. Precautions should be taken to prevent the introduction and spread of EDRR AIIS through firefighting activities. All firefighting agencies moving equipment into the state of Idaho shall follow protocols similar to the United States Forest Service decontamination protocols set forth in "Guide to Preventing Aquatic Invasive Species Transport by Wildland Fire Operations." Those protocols can be viewed online at ~~https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5373422.pdf~~ https://www.fs.usda.gov/sites/default/files/2019-09/pms444.pdf. ~~(7-1-24)~~( )

05. Construction and Road Building and Maintenance Equipment. Construction and equipment used for road building and maintenance must be free of EDRR AIIS. If equipment that is being transported into the state of Idaho has been in an infested water body or water supply system within the preceding thirty (30) days, the equipment must be inspected in accordance with Section 132. The Department may require decontamination. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

140. INVASIVE SPECIES - AQUATIC INVERTEBRATES.

INVASIVE SPECIES - AQUATIC INVERTEBRATES		
	Common Name	**Scientific Name**
01.	**Zebra Mussel**	~~Dreissenia~~Dreissena polymorpha
02.	**Quagga Mussel**	~~Dreissenia~~Dreissena bugensis
03.	**New Zealand Mud Snail**	Potamopyrgus antipodarum
04.	**Red ~~Claw~~ Swamp Crayfish**	Cherax quadricarinatus/C. destructor
05.	**Yabby Crayfish**	Cherax albidus/C. destructor
06.	**~~Marone~~Marron Crayfish**	Cherax tenuimanus/C. cainii
07.	**Marbled Crayfish**	~~Procambarus fallax f. virginalis~~Procambarus virginalis
08.	**Rusty Crayfish**	Faxonius rusticus
09.	**Asian Clam**	Corbicula ~~fluminea~~ spp.
10.	**Spiny Waterflea**	Bythotrephes ~~cederstroemi~~ longimanus
11.	**Fishhook Waterflea**	Cercopagis pengoi
12.	**~~Marmorkrebs~~Procambarus Crayfish Species**	Procambarus ~~sp.~~
13.	**Golden Mussel**	Limnoperna ~~forunei~~ fortunei

~~(7-1-26)~~(____)

141. INVASIVE SPECIES - FISH.

INVASIVE SPECIES - FISH		
	Common Name	**Scientific Name**
01.	**Green Sturgeon**	Acipenser medirostris
02.	**Walking Catfish**	~~Claridae~~Clariidae
03.	**Bowfin**	Amia ~~calva~~ spp.
04.	**Gar**	~~Lepiostidae~~Lepisosteidae
05.	**Piranhas**	Serrasalmus spp., Rosseveltiella spp., Pygocentrus spp.
06.	**Rudd**	Scardinus ~~erythropthalmus~~ erythrophthalmus
07.	**Ide**	Leuciscus idus
08.	**Diploid Grass Carp**	Ctenopharyngod~~e~~on idella

INVASIVE SPECIES - FISH		
	Common Name	**Scientific Name**
09.	**Bighead Carp**	~~Hypopthalmichthys~~Hypophthalmichthys nobilis
10.	**Silver Carp**	~~Hypopthalmichthys~~Hypophthalmichthys molitrix
11.	**Black Carp**	~~Mylopharyngodeon~~Mylopharyngodon piceus
12.	**Snakeheads**	Channa spp., Parachanna spp.
13.	**Round Goby**	Neogobius melanostomas
14.	**Ruffe**	Gymnocephalus cernuus

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

142. INVASIVE SPECIES - AMPHIBIANS

Invasive Species - Amphibians		
	Common Name	**Scientific Name**
01.	**Rough-skinned Newt**	Taricha granulose
02.	**American Bullfrog**	Lithobates catesbeianus

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

143. INVASIVE SPECIES - REPTILES.

Invasive Species - Reptiles		
	Common Name	**Scientific Name**
01.	**Red-eared Slider**	Trachemys scripta elegans
02.	**Mediterranean Gecko**	Hemidactylus turcicus
03.	**Common Wall Lizard**	Podarcis muralis
04.	**Italian Wall Lizard**	Podarcis ~~sicula~~ siculusa
05.	**Brahminy Blindsnake**	~~Ramphotyphlops~~Indotyphlops braminus
06.	**Common Snapping Turtle**	Chelydra serpentina

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

(BREAK IN CONTINUITY OF SECTIONS)

146. INVASIVE SPECIES – INSECTS.

Invasive Species - Insects		
	Common Name	**Scientific Name**
01.	**Asian Longhorned Beetle**	~~Anglophobia~~Anoplophora glabripennis
02.	**Emerald Ash Borer**	Agrilus planipennis
03.	**Spongy Moth**	*Lymantria dispar*

~~(7-1-24)~~( )

147. INVASIVE SPECIES – MOLLUSKS.

Invasive Species – Mollusks		
	Common Name	**Scientific Name**
01.	**Applesnail**	Pomacea spp.
02.	**Brown Garden Snail**	~~Cryptomphalus~~Helix aspersa
03.	**Chinese Mysterysnail**	Bellamya Cipangopaludina Bellamya chinensis
04.	**Decollate Snail**	Rumina decollata
05.	**Faucet Snail**	Bithynia tentaculata
06.	**Giant African Snail**	~~Achatha~~Achatina fulica
07.	**Green or Burrowing Snail**	Cantareus apertus
08.	**Japanese Mysterysnail**	~~Bellamya~~Cipangopaludina japonica
09.	~~**Lactea**~~**Milk Snail**	Otala lactea
10.	~~**Marisa**~~**Giant Ramshorn Snail**	Marisa cornuarietis
11.	**Maritime Garden Snail**	Cernuella virgata
12.	~~**Pulmonate**~~**Roman Snail**	Helix pomatia
13.	**Quilted Melania**	Tarebia granifera
14.	**Red-rim Melania**	Melanoides tuberculata
15.	**White Garden Snail**	Theba pisana
16.	**Wrinkled Snail**	Candidula intersecta

~~(7-1-24)~~( )

148. (RESERVED)

149. INVASIVE SPECIES - INVASIVE PLANTS: ENERGY CROPS.

Invasive Species - Invasive Plants: Energy Crops		
	Common Name	Scientific Name
01.	**Giant Reed**	*Arundo donax* **(and hybrids)**
02.	**Kudzu**	*Pueraria montana* **(and hybrids)**
03.	**Chinese Silver Grass**	*Miscanthus ~~giganteus~~* sinensis **(and hybrids)**
04.	**Purging Nut**	*Jatropha ~~curcus~~ curcas* **(and hybrids)**
05.	**Cold Tolerant ~~Eucalyptis~~ Eucalyptus (and hybrids)**	

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

150. INVASIVE SPECIES - INVASIVE PLANTS: TRAP CROPS.

Invasive Species - Invasive Plants: Trap Crops		
	Common Name	Scientific Name
01.	**Litchi Tomato**	*Solanum sisymbriifolium* **(and hybrids)** (Otherwise known as Sticky Nightshade or Fire and Ice)
02.	**Black Nightshade**	*Solanum ~~nigrus~~* nigrum **(and hybrids)**

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

(BREAK IN CONTINUITY OF SECTIONS)

220. NOXIOUS WEEDS - DESIGNATIONS.
The weeds listed on the Statewide Prohibited Genera, EDRR, Containment, and Control lists are hereby officially designated and published as noxious. (3-15-22)

01. Statewide Prohibited Genera Noxious Weed List. (3-15-22)

a. All plants and plant parts in the genera of: *Cytisus*, *Genista*, *Spartium*, and *Chamaecytisus* additionally including "all" subtaxa of these plant genera are prohibited in Idaho. (3-15-22)

b. Weeds listed in the Prohibited Genera list may exist in varying populations throughout the state. The concentration of these weeds is at a level where control and/or eradication may be possible. A written plan for weeds on the Statewide Prohibited Genera Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request. (3-15-22)

02. Statewide EDRR Noxious Weed List. Weeds listed in the EDRR list are not known to exist in Idaho, however, have the potential to become established, or are known to exist in Idaho in small enough infestations that eradication is possible. If any of the listed plants (Subsection 220.02) are found to occur in Idaho, they shall be reported to the Department within ten (10) days following positive identification by the University of Idaho or other qualified authority as approved by the Director. These weeds shall be eradicated during the same growing season as identified.

	Common Name	Scientific Name
1.	**Brazilian Elodea**	Egeria densa
2.	**Cogongrass**	Imperata cylindrica
3.	**Common/European Frogbit**	Hydrocharis morsus-ranae
4.	**Fanwort**	Cabomba caroliniana
5.	**Feathered Mosquito Fern**	Azolla pinnata
6.	**Giant Hogweed**	Heracleum mantegazzianum
7.	**Giant Salvinia**	Salvinia molesta
8.	**Goatsrue**	Galega officinalis
9.	**Hydrilla**	Hydrilla verticillata
10.	**Iberian Starthistle**	Centaurea iberica
11.	**Policeman's Helmet**	Impatiens glandulifera
12.	**Purple Starthistle**	Centaurea calcitrapa
13.	**Spiny Cocklebur**	Xanthium spinosum
134.	**Squarrose Knapweed**	Centaurea triumfetti
145.	**Starry Stonewort**	Nitellopsis obtusa
156.	**Syrian Beancaper**	Zygophyllum fabago
167.	**Tall Hawkweed**	Hieracium piloselloides
178.	**Variable-Leaf-WaterMilfoil**	Myriophyllum heterophyllum
189.	**Water-Chestnut Caltrop**	Trapa natans
1920.	**Water Hyacinth**	Eichhornia crassipes
201.	**Yellow Devil Hawkweed**	Hieracium glomeratum
212.	**Yellow Floating Heart**	Nymphoides-pelata peltata

(7-1-25)( )

03. Statewide Control Noxious Weed List. Weeds listed in the control list are known to exist in varying populations throughout the state. The concentration of these weeds is at a level where control or eradication, or both, may be possible. A written plan for weeds on the Statewide Control Noxious Weed List shall be developed by the control authority that specifies active control methods to reduce known populations in not more than five (5) years. The plan shall be available to the Department upon request.

	Common Name	Scientific Name
1.	**Black Henbane**	Hyoscyamus niger
2.	**Bohemian Knotweed**	Polygonum X bohemicum
3.	**Common Crupina**	Crupina vulgaris
4.	**Common Reed (Phragmites)**	Phragmites australis
5.	**Dyer's Woad**	Isatis tinctoria

	Common Name	Scientific Name
6.	**Eurasian Watermilfoil**	*Myriophyllum spicatum* (and hybrids)
7.	**Flowering Rush**	Butomus umbellatus
8.	**Giant Knotweed**	Polygonum sachalinense
9.	**Japanese Knotweed**	Polygonum cuspidatum
10.	**Johnsongrass**	Sorghum halepense
11.	**Matgrass**	Nardus stricta
12.	**Meadow Knapweed**	Centaurea debeauxii
13.	**Mediterranean Sage**	Salvia aethiopis
14.	**Musk Thistle**	Carduus nutans
15.	**Orange Hawkweed**	Hieracium aurantiacum
16.	**Parrotfeather Milfoil**	Myriophyllum aquaticum
17.	**Perennial Sowthistle**	Sonchus arvensis
18.	**Russian Knapweed**	Acroptilon repens
19.	**Scotch Broom**	Cytisus scoparius
20.	**Small Bugloss**	Anchusa arvensis
21.	**Turkish Thistle**	Carduus cinereus
22.	**Vipers Bugloss**	Echium vulgare
23.	**Yellow Hawkweed**	Hieracium caespitosum

(7-1-25)

04. Statewide Containment Noxious Weed List. Weeds listed in the containment noxious weeds list are known to exist in various populations throughout the state. Weed control efforts may be directed at reducing or eliminating new or expanding weed populations while known and established weed populations, as determined by the weed control authority, may be managed by any approved weed control methodology, as determined by the weed control authority.

	Common Name	Scientific Name
1.	**Canada Thistle**	*Cirsium arvense*
2.	**Curlyleaf Pondweed**	*Potamogeton crispus*
3.	**Dalmatian Toadflax**	*Linaria dalmatica ssp. dalmatica*
4.	**Diffuse Knapweed**	*Centaurea diffusa*
5.	**Field Bindweed**	*Convolvulus arvensis*
6.	**Hoary Alyssum**	*Berteroa incana*
7.	**Houndstongue**	*Cynoglossum officinale*
8.	**Jointed Goatgrass**	*Aegilops cylindrica*
9.	**Leafy Spurge**	*Euphorbia esula*

	Common Name	Scientific Name
10.	**Milium**	*Milium vernale*
11.	**Oxeye Daisy**	*Leucanthemum vulgare*
12.	**Perennial Pepperweed**	*Lepidium latifolium*
13.	**Plumeless Thistle**	*Carduus acanthoides*
14.	**Poison Hemlock**	*Conium maculatum*
15.	**Puncturevine**	*Tribulus terrestris*
16.	**Purple Loosestrife**	*Lythrum salicaria*
17.	**Rush Skeletonweed**	*Chondrilla juncea*
18.	**Saltcedar**	*Tamarix* spp.
19.	**Scotch Thistle**	*Onopordum acanthium*
20.	**Spotted Knapweed**	*Centaurea stoebe*
21.	**Tansy Ragwort**	*Senecio jacobaea*
22.	**White Bryony**	*Bryonia alba*
23.	**Whitetop (Hoary Cress)**	*Cardaria draba*
24.	**Yellow Flag Iris**	*Iris ~~pseudocorus~~ pseudacorus*
25.	**Yellow Starthistle**	*Centaurea solstitialis*
26.	**Yellow Toadflax**	*Linaria vulgaris*

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

05. Designation of Articles Capable of Disseminating Noxious Weeds. The following articles are designated by the Director as capable of disseminating noxious weeds: (3-15-22)

a. Construction equipment, road building and maintenance equipment, and implements of husbandry. (3-15-22)

b. Motorized vehicles such as, all-terrain vehicles, motorcycles, and other off-road vehicles and non-motorized vehicles such as bicycles and trailers. (3-15-22)

c. Grain and seed. (3-15-22)

d. Hay, straw and other material of similar nature. (3-15-22)

e. Nursery stock including plant material propagated for the support of aquarium, pet, or horticultural activities. (3-15-22)

f. Feed and seed screenings. (3-15-22)

g. Fence posts, fencing and railroad ties. (3-15-22)

h. Sod. (3-15-22)

i. Manure, fertilizers and material of similar nature. (3-15-22)

j. Soil, sand, mulch, and gravel. (3-15-22)

k. Boats, personal watercraft, watercraft trailers, and items of a similar nature. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

304. INCORPORATION BY REFERENCE.
The following document is incorporated by reference and applies to Subchapter C, only: (3-15-22)

01. ~~The~~ NAISMA Certified Weed Free Products Forage Minimum ~~Certification~~ Standards. Revised 06/05/2024, as published at ~~https://naisma.org/wp-content/uploads/2020/04/NAISMA-WFF-Minimum-Standards-Final4-16-20.pdf~~ https://drive.google.com/file/d/1kVLu5ZKmQaZRZ4qO4RF4sye1ZB3Ud4aB/view. ~~(3-15-22)~~( )

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

DOCKET NO. 08-0111-2601

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking may be scheduled if deemed necessary by the agency based on stakeholder feedback or other considerations. Public hearing(s) will also be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

This rulemaking removes the term "regional" from references to accreditation within IDAPA 08.01.11 subsection 100 – Recognition of Accreditation Organizations. The proposed rule also clarifies related language within institutional registration provisions, including updates to provisions associated with surety bond exemptions.

The purpose of the updates to the rule is to remove outdated terminology that is no longer used by the U.S. Department of Education. Retaining this language may create misalignment with current accreditation recognition and affect application of existing rule provisions, including requirements related to surety bond exemptions. Updating the terminology will improve clarity and consistency with current practice.

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

There are no fees being impacted as a result of this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Idaho Administrative Bulletin, Volume 26-7 pg. 46.

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:

No documents incorporated by reference are impacted by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or 208-488-7586.

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 28, 2026.

DATED this 25th day of August, 2026.

Nicholas Wagner
Agency Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Phone: (208)488-7586
Fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0111-2601
(Only Those Sections With Amendments Are Shown.)

08.01.11 – REGISTRATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS AND PROPRIETARY SCHOOLS

100. RECOGNITION OF ACCREDITATION ORGANIZATIONS.
For purposes of registration of postsecondary educational institutions and propriety schools, the Board recognizes the ~~regional~~ accreditation organizations that are recognized by and in good standing with the United States Department of Education, and which accredit entire colleges or universities, and which do not accredit only courses or courses of study (such as specialized accreditation organizations). ~~Further, the Board may recognize other accreditation organizations on a case-by-case basis. A request for recognition of other accreditation organizations for purposes of registration should be made to the Board's Chief Academic Officer, who will review and evaluate the request with the input and advice of the Board's Committee on Academic Affairs and Programs (CAAP). The Board will make a final decision based on such evaluation and review.~~ ~~(3-30-23)~~( )

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, 33-107, 33-116, 33-1612, and 33-1631 Idaho Code.

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

Monday, October 19, 2026 **9:00 a.m. (MT)**
In Person: **650 W State St. Boise, ID 83702** **3rd Floor, OSBE Conference Room** **Virtual:** **Zoom: https://us02web.zoom.us/j/85226306859** **Meeting ID: 852 2630 6859**

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

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

This rulemaking updates IDAPA 08.02.02, including Section 111, Bullying, Harassment and Intimidation Prevention and Response, and multiple educator preparation and certification sections, including Sections 013, 015, 016, 021, 042, 060, and 100.

The proposed rule revises Section 111 to align bullying prevention, reporting, and response requirements with recent statutory changes enacted in House Bill 515 (2026), including updates to reporting processes and related provisions.

The rule also updates educator preparation, certification, and alternative authorization provisions to address outdated and inconsistent language, clarify requirements, and align rule with current state and federal law and practice, including revisions related to House Bill 832 (2026). These updates support implementation of educator preparation programs, improve clarity for local education agencies and educators, and better align certification provisions with workforce needs.

Collectively, these revisions improve clarity, consistency, and alignment of rule provisions across educator certification and student safety requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees being impacted as a result of this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2026, Idaho Administrative Bulletin, Volume 26-6 pg. 11.

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: No documents incorporated by reference are impacted by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or 208-488-7586.

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 28, 2026.

DATED this 25th day of August, 2026.

Nicholas Wagner
Agency Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Phone: (208)488-7586
Fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-2601
(Only Those Sections With Amendments Are Shown.)

08.02.02 – RULES GOVERNING UNIFORMITY

015. IDAHO EDUCATOR CREDENTIAL.
All standard educator certificates are valid for five (5) years and are renewable, subject to the applicable renewal requirements set by the State Board of Education (SBOE) and any applicable conditions applied to an individual's certificate by the professional standards commission. (7-1-26)

01. Standard Instructional Certificate. A Standard Instructional Certificate makes an individual eligible to teach all grades, subject to the grade ranges and subject areas of the valid endorsement(s) attached to the certificate. A standard instructional certificate may be issued to any person who has a baccalaureate degree or higher from an accredited college or university and who meets the following requirements or successfully completes an interim certificate requirements: (4-6-23)

a. Minimum Credit Hours. Earned a minimum of ~~twenty~~ thirty (~~2~~30) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho comprehensive literacy plan; and ~~(3-15-22)~~( )

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

c. Complete a state board approved educator preparation program and receive an institutional recommendation from the program specifying the grade ranges and subjects for which the applicant is eligible to

receive an endorsement; (4-6-23)

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

ii. To receive endorsement in (1) field of teaching, preparation must consist of completion of at least ~~forty-five~~thirty-five (4~~3~~5) semester credit hours in a single subject area; ~~(3-15-22)~~( )

d. Meet or exceed the state qualifying score on the state board approved content area and pedagogy assessments. (4-6-23)

02. Standard Pupil Service Staff Certificate. Persons who serve as school counselors, school psychologists, school social workers, and school nurses are required to hold the Standard Pupil Service Staff Certificate, with the respective endorsement(s) for which they qualify. Persons who serve as a speech-language pathologist, school audiologist, occupational therapist, or physical therapist may be required, as determined by the local educational agency, to hold a Standard Pupil Service Staff Certificate with respective endorsements for which they qualify. (4-6-23)

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

i. Hold a master's degree and provide verification of completion of an approved program of graduate study in school counseling, including sixty (60) semester credits, from a college or university approved by the Idaho SBOE or the state educational agency of the state in which the program was completed. The program must include successful completion of seven hundred (700) clock hours of supervised field experience, seventy-five percent (75%) of which must be in a K-12 school setting. This K-12 experience must be in each of the following levels: elementary, middle/junior high, and high school. Previous school counseling experience may be considered to help offset the field experience clock hour requirement; and (7-1-26)

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

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

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

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

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

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

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

(3-15-22)

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

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

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

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

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

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

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

g. Speech-Language Pathologist Endorsement. To be eligible for a speech-language pathologist endorsement, a candidate must possess a master's degree from an accredited college or university in a speech/ language pathology program approved by the SBOE. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Speech-Language Pathology offered through the American Speech-Language-Hearing Association and/or a current and valid speech-language pathologist license issued by the appropriate Idaho state licensing board. (7-1-26)

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

i. Audiology Endorsement. To be eligible for an audiology endorsement, a candidate must possess a master's degree from an accredited college or university in an audiology program approved by the SBOE. The renewal credit requirement may be waived if the applicant holds a current and valid Certificate of Clinical Competence in Audiology offered through the American Speech-Language-Hearing Association and/or a current and valid audiologist license issued by the appropriate Idaho state licensing board. (7-1-26)

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

i. A master's degree in social work (MSW) from a postsecondary institution accredited by an organization recognized by the SBOE. The program must be currently approved by the state educational agency of the state in which the program was completed; and (7-1-26)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Director of Special Education Endorsement. To be eligible for the Director of Special Education endorsement, a candidate must meet the following requirements: (3-15-22)

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

ii. Have four (4) years of full-time certificated/licensed experience working with students Pre-K-12, while under contract in a school setting; (3-15-22)

iii. Provide verification of a state board approved program of graduate study of school administration for the preparation of directors of special education at an accredited college or university. This program shall include demonstration of proficiency in conducting instructional and pupil service staff evaluations based on the statewide framework for evaluation, and demonstration of competencies in the Idaho Standards for Directors of Special Education and the Idaho Standards for School Principals. Coursework shall include knowledge and competence in understanding the Individuals with Disabilities Education Act, utilizing the Idaho Special Education Manual, special education funding and fiscal accountability, results-driven leadership and accountability in special education, and instructional, behavioral, and management strategies for supporting students in the least restrictive environment. (3-15-22)

iv. Have completed an administrative internship in the area of administration of special education; and (3-15-22)

v. An institutional recommendation is required for Director of Special Education endorsement. (3-15-22)

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

a. Standard Degree Based Career Technical Occupational Certificate. Persons who hold a degree based career technical certificate are eligible to teach in a career technical area, subject to the grade range(s) and subject area(s) of the valid endorsement(s) attached to the certificate. All degree based career technical certificates require candidates to meet the Idaho Core Teaching Standards. The degree based career technical certificate is valid for five years. A degree based career technical certificate may be issued to any person who has a baccalaureate degree from an accredited college or university and meets the following requirements: ~~(3-15-22)~~( )

i. Earned a minimum of twenty (20) semester credit hours in the philosophical, psychological, methodological foundations, instructional technology, and in the professional subject matter of education, which shall include demonstration of competencies as specified in the Idaho Comprehensive Literacy Plan; (3-15-22)

ii. Earned a minimum of twelve (12) semester credit hours in career technical education foundation coursework to include principles and philosophies of career technical education, evaluation and assessment in career

technical education, leadership and career technical student organization leadership, career guidance and transition, occupational analysis and curriculum development, and lab safety; (3-15-22)

iii. ~~Accumulated one thousand (1,000) clock hours of~~Equivalent related industry experience~~, or practicum~~ as approved by the ~~higher education institution~~ Board, in the respective field of specialization as authorized by section 33-2205, Idaho code; ~~(3-15-22)~~( )

iv. Completed a total of at least ~~ten (10) undergraduate~~ six (6) semester credit hours ~~or six (6) graduate semester credit hours~~ of student teaching: ~~(3-15-22)~~( )

v. Completed a state board approved educator preparation program and received an institutional recommendation specifying the grade ranges and subjects for which the person is eligible to receive an endorsement; (3-15-22)

(1) To receive endorsement in two (2) fields of teaching, preparation must ~~consist of at least thirty (30)~~ meet the semester credit hours ~~in one (1) field of teaching and completion of at least twenty (20) semester credit hours in a second field of teaching~~ requirement for the specific endorsement as approved by the Board. ~~(3-15-22)~~( )

(2) To receive endorsement in one (1) field of teaching, preparation must consist of completion of at least ~~forty-five~~ thirty (~~45~~30) semester credit hours in a single subject area. ~~(3-15-22)~~( )

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

vii. The renewal credits required in Section 060 may be waived if the applicant holds a current, valid certificate from the National Board for Professional Teaching Standards or holds a current professional license in good standing at the time of renewal. Credits must be earned during the validity period of the certificate. ~~(4-6-23)~~( )

b. Career Technical Education Program Standard Administrator Certificate. The career technical education program administrator certificate is required for an individual serving as an administrator, director, or manager of career technical education programs in Idaho public schools. Individuals must meet one (1) of the two (2) following prerequisites to qualify for the career technical education program administrator certificate. The certificate is valid for five (5) years and must meet the renewal requirements pursuant to Section 060 of these rules to renew. (7-1-26)

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

ii. Hold a superintendent or principal endorsement on a standard administrator certificate and provide evidence of either a minimum of four (4) years teaching, three (3) of which must be in a career technical discipline; or successful completion of a Division of Career Technical Education career technical education ~~leadership institute~~ administrative coursework; or completion of course work including credits in: principles and foundations of career technical education, career technical student organizations, occupational analysis, curriculum design, one or more externships with career technical education industry advisor partners totaling 100 hours, and ongoing participation in technical advisory committee meetings associated with the school's career technical education programs. ~~(4-6-23)~~( )

c. Industry-Based Occupational Specialist Certificate. Persons who hold an occupational specialist career technical certificate are eligible to teach in a career technical program pathway(s), subject to the grade range(s)

and pathway areas(s) of the valid endorsement(s) attached to the certificate. All occupational specialist career technical certificates require candidates to meet the core teaching standards of the Idaho Standards for Initial Certification of Professional School Personnel. An occupational specialist career technical certificate may be issued to an experienced industry expert entering the teaching profession who: and meeting the following eligibility requirements: (3-15-22)( )

i. Possesses either a high school diploma or General Educational Development (GED) certificate; meets provisions of Idaho Code; and, verify has verifiable technical skills obtained through work experience, industry certification or testing as listed below. When applicable, requirements of occupationally related state agencies licensing requirements must also be met. Since educational levels and work experiences vary, a Applicants may will be determined qualified under any one (1) of the following three (3) options: (3-15-22)( )

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

(21) Have a baccalaureate degree in the specific occupation or related area, plus one (1) year or two thousand (2,000) hours of recent, gainful employment in the occupation for which certification is requested, at least half of which must have been during the immediate previous five (5) years; orMeets the professional experience hours requirements established by the Board pursuant to section 33-2205, Idaho code; (3-15-22)( )

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

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

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

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

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

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

(2) The Standard Occupational Specialist Certificate is valid for five (5) years and must meet the renewal requirements pursuant to Section 060 of these rules to renew. Credit equivalency will be based on verification of forty-five (45) hours of participation at approved technical conferences, institutes, or workshops where participation is prorated at the rate of fifteen (15) hours per credit; or one hundred twenty (120) hours of approved related work experience where hours worked may be prorated at the rate of forty (40) hours per credit; or any equivalent combination thereof. (4-6-23)( )

iv. Advanced Occupational Specialist Certificate. This certificate is issued to individuals who are eligible for the Standard Occupational Specialist Certificate; and provide evidence of completion of a teacher training degree an approved educator preparation program; or eighteen (18) semester credits of approved by the Division of

Career Technical Education ~~approved education~~; or content-related course work in addition to the twelve (12) ~~semester~~ credits required for the Standard Occupational Specialist Certificate (a total of thirty (30) semester credits). The Advanced Occupational Specialist Certificate is valid for five (5) years ~~and must meet the renewal requirements pursuant to Section 060 of these rules to renew~~ and is renewable under the same provisions as the Standard Occupational Specialist Certificate. ~~(4-6-23)~~( )

05. Postsecondary Specialist Certificate. A Postsecondary Specialist certificate will be granted to a current academic faculty member whose primary employment is with any accredited Idaho postsecondary institution. To be eligible to teach in the public schools under this postsecondary specialist certificate, the candidate must supply a recommendation from the employing institution (faculty's college dean). The primary use of this state-issued certificate is for distance education, virtual classroom programs, and public and postsecondary partnerships. (3-15-22)

a. To renew this certificate, the renewal application must be accompanied with a new written recommendation from the postsecondary institution (faculty's college dean level or higher). (3-15-22)

b. The candidate must meet the following qualifications: (3-15-22)

i. Hold a baccalaureate degree or higher in the content area being taught; (3-15-22)

ii. Be currently employed by the postsecondary institution in the content area to be taught; and (3-15-22)

iii. Complete and pass a criminal history background check as required by Section 33-130, Idaho Code. (3-15-22)

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

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

a. Junior ROTC Instructor Certificate. To be eligible for a five (5) year renewable Junior ROTC Instructor ~~e~~Certificate, an applicant shall submit a ~~complete application and provide a~~ copy of their certificate~~(s)~~ or letter of completion ~~of~~ from an armed forces Junior ROTC training program. ~~(3-15-22)~~( )

b. ~~If approved the certificate shall be issued for five years and is renewable~~Interim Junior ROTC Instructor Certificate. A three (3) year interim certificate shall be issued to those who are enrolled in the Junior ROTC Instructor training program. The applicant shall submit a complete application, a letter of recommendation from their hiring school district or public charter school, and a copy of their Junior ROTC Instructor initial qualification letter issued by an armed forces Junior ROTC training program. Upon completion of the Junior ROTC training program, an applicant can apply for the five (5) year renewable Junior ROTC Instructor Certificate. ~~(3-15-22)~~( )

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

a. Administrator certificate renewal. In order to recertify, holders of an administrator certificate must complete a course consisting of a minimum of three (3) semester credits in the Idaho framework for teachers' evaluation pursuant to Section 33-1204, Idaho Code. Credits must be earned through an approved educator preparation program and include a laboratory component. The laboratory component must include in-person or video observation and scoring of teacher performance using the statewide framework for teacher's evaluation. The approved course must include the following competencies: (3-15-22)

i. Understanding professional practice in Idaho evaluation requirements, including gathering accurate evidence and artifacts, understanding and using the state framework for evaluation rubric with fidelity, proof of

calibration and interrater reliability, ability to provide effective feedback for teacher growth, and understanding and advising teachers on individualized learning plan and portfolio development. (3-15-22)

ii. Understanding student achievement and growth in the Idaho evaluation framework, including understanding how measurable student achievement and growth measures impact summative evaluation ratings and proficiency in assessment literacy. (3-15-22)

016. ~~IDAHO~~ INTERIM CERTIFICAT~~E~~ION, NON-TRADITIONAL ROUTES, AND CERTIFICATE REINSTATEMENT.

01. Interim Certificate. A three (3) year interim certificate may be issued to an applicant~~s~~ who holds a valid certificate or license from another state or other entity that participates in the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Agreement pursuant to Section 33-4104, Idaho Code, or who ~~are~~ is engaged in or completed a non-traditional route or alternative authorization to certification as ~~prescribed herein~~ approved by the State Board of Education. An interim certificate gives the holder the same rights and responsibilities as an individual with a standard certificate. ~~(4-6-23)~~( )

~~01~~a. ~~Interim Certificate Not Renewable.~~ Interim certification is only available on a one (1) time basis except under extenuating circumstances approved by the State Department of Education or Division of Career Technical Education. ( )

b. ~~An applicant~~Interim certificate holders must meet the requirements of the ~~applicable alternate authorization route or non-traditional route~~ State Board of Education to obtain a standard ~~Idaho Educator Credential~~ certificate during or at the conclusion of the term of the interim certificate. ~~(3-15-22)~~( )

i. All interim instructional certificate holders, excluding those with limited occupational specialist certificates, must complete a state board approved Idaho Comprehensive Literacy course or assessment as a one-time requirement prior to applying for a standard certificate. ( )

ii. All interim certificate holders with an All Subjects (K-8) endorsement, any mathematics endorsement, Exceptional Child Education endorsement, Blended Early Childhood/Early Childhood Special Education endorsement, or Administrator certificate must complete the state board approved Teaching for Mathematical Thinking, course, as a one-time requirement prior to applying for standard certification. ( )

02. Non-Traditional Route to ~~Teacher~~ Certification. An individual who possesses a baccalaureate degree or higher from an institution of higher education accredited by an entity recognized by the Board may acquire ~~interim~~ certification through a state board approved non-traditional ~~route to teacher certification~~ program. Non-traditional programs must ensure candidates meet content, pedagogy, and performance criteria per section 017.01. The non-traditional route may be used for first-time certification, subsequent certificates, and additional endorsements. (3-15-22)

~~**a.** Individuals who possess a baccalaureate degree or higher from an institution of higher education accredited by an entity recognized by the SBOE may receive an interim instructional certificate. To receive the interim certificate, the individual must:~~ ~~(7-1-26)~~

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

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

~~**b.** Standard certification. Upon completion of the non-traditional route the applicant must complete a two (2) year state board approved teacher mentoring program and receive two (2) years of Idaho evaluations with a summative rating of proficient or better.~~ ~~(4-6-23)~~

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

~~instructional certificate.~~ ~~(3-15-22)~~

~~**04. Teaching For Mathematical Thinking**. All Idaho teachers or administrators with an interim certificate (alternate authorizations, nontraditional routes, reinstatements or coming from out of state), with an All Subjects (K-8) endorsement, any mathematics endorsement, Exceptional Child Education endorsement, Blended Early Childhood/Early Childhood Special Education endorsement, or Administrator certificate must complete the state board approved Teaching for Mathematical Thinking, course, as a one-time requirement for full certification.~~ ~~(4-6-23)~~

0~~5~~3. **Reinstatement of Expired Certificate**. ( )

a. An individual with an Idaho standard certificate expired for one (1) year or less who did not meet the six (6) credit renewal requirement may apply for reinstatement and be issued an interim certificate. During the validity period of the interim certificate, the applicant must complete any outstanding credits to meet the renewal requirement to be eligible for a five (5) year renewable certificate. ( )

b. An individual ~~holding an expired~~ with a standard Idaho certificate expired for over one (1) year may apply for and be issued an interim certificate. During the validity period of the interim certificate, the applicant must meet the following requirements to ~~obtain~~ be eligible for a standard five (5) year renewable ~~certification during the term of the interim~~ certificate: ~~(7-1-26)~~( )

~~**a.**~~i. Two (2) years of Idaho evaluations, as applicable to the type of certification, with a summative rating of proficient or better; (4-6-23)

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

~~**c.**~~iii. Completion of the six (6) credit renewal requirement; and ~~(4-6-23)~~( )

~~**d.**~~iv. Completion of the Idaho Comprehensive Literacy Course or Assessment and the Teaching for Mathematical Thinking ~~as provided herein~~ if applicable per section 016.01.b. ~~(3-15-22)~~( )

~~**e.** Individuals holding an expired certificate that was in good standing at the time the certificate expired, may have the certificate reinstated within one (1) year of the time the certificate expired by completing any outstanding professional development requirements that were pending at the time the certificate expired.~~ ~~(4-6-23)~~

0~~6~~4. **Codes of Ethics**. All laws and rules governing standard certificated staff with respect to conduct, discipline, and professional standards shall apply to all certified staff serving in an Idaho public school, including those employed under an interim certificate. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

021. ENDORSEMENTS.
Holders of an Instructional Certificate or Occupational Specialist Certificate must have one (1) or more endorsements attached to their certificate as applicable to the type of certification. Instructional staff are eligible to teach in the grades and content areas of their endorsements. Idaho educator preparation programs shall prepare candidates for endorsements in accordance with these certification requirements and the standards approved by the board. An official statement from the college of education of competency in a content area or field is acceptable in lieu of required credits if such statements are created in consultation with the department or division of the accredited college or university in which the competency is established and are approved by the director of teacher education of the recommending college or university. Statements must include the number of credits the competency evaluation is equivalent to. To add an endorsement to a certificate, an individual must complete the credit hour requirements as established by the SBOE and meet or exceed the state qualifying score on a board approved content, pedagogy or performance assessment. (7-1-26)

01. Clinical Experience Requirement. All standard endorsements require supervised clinical experience in the relevant content area, or a State Department of Education or Division of Career Technical Education approved alternative clinical experience as applicable to the area of endorsement. (4-6-23)

02. Alternative Authorization - Teacher to New Endorsement. This alternative authorization allows a local education agency to request additional endorsement for a candidate. This authorization is valid for one (1) year and may be renewed for two (2) additional years with evidence of satisfactory progress on one (1) of the following options: (4-6-23)

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

b. Option II -- Master's degree or higher. By earning a graduate degree in a content specific area, candidates may add an endorsement in that same content area to a valid instructional certificate. Successful completion of a one (1) year, state board approved mentoring program must be completed during the first year to maintain the endorsement. (4-6-23)

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

d. ~~For all candidates moving to an initial certification in a career technical education endorsement area, the candidate will be required to complete or have completed coursework in principles and foundations of career technical education and career technical student organizations, training in occupational analysis and curriculum design, and a minimum of two hundred (200) internship/externship hours in the career technical education endorsement area~~Option IV –Occupational specialists may add endorsements through the completion of industry professional experience or internship/externship hours equivalent to the required professional hours established by the Board pursuant to section 33-2205, Idaho code. ~~(4-6-23)~~( )

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

(BREAK IN CONTINUITY OF SECTIONS)

042. ALTERNATIVE AUTHORIZATION.
Alternative authorization allows a local education agency to request certification for a candidate. This authorization grants an interim certificate that allows individuals to serve as the teacher of record while pursuing standard certification. Evidence of satisfactory progress toward standard certification must be provided each year. Individuals who hold a current instructional certificate may obtain additional endorsements through an alternative authorization as prescribed in Subsection 021 of these rules. Individuals seeking an alternative authorization for an occupational specialist certificate must also meet the minimum industry hours for the content area as established by the State Board pursuant to section 33-2205, Idaho code. ~~(4-6-23)~~( )

01. Alternative Authorization -- Teacher to New Certification. This alternative authorization allows a local education agency to request additional certification for a candidate who already holds a current Idaho certificate in good standing to add an additional type of certificate in a new certification area. (4-6-23)

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

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

i. The candidate will work toward completion of a state board-approved educator preparation

program. The candidate must complete a minimum of nine (9) semester credits annually to maintain continued eligibility for the interim certificate; and (4-6-23)

ii. The participating educator preparation program shall provide procedures to assess and credit equivalent knowledge, dispositions, and relevant life/work experiences toward program completion requirements. (4-6-23)

02. Alternative Authorization -- Content Specialist. This alternative authorization allows a local education agency to request an interim certificate for an individual who possesses distinct content knowledge and skills to teach in a content area. (4-6-23)

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

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

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

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

i. Prior to authorization, a consortium comprised of a state board-approved educator preparation program representative, a local education agency representative, and the candidate shall determine the preparation needed and develop a plan to meet the Idaho Standards for Initial Certification of Professional School Personnel. The educator preparation program shall provide procedures to assess and credit: equivalent knowledge, dispositions, and relevant life or work experiences. The plan must include a state board-approved mentoring program. While teaching under the alternative authorization, the mentor shall provide a minimum of one (1) classroom observation per month, which will include feedback and reflection. The plan must include annual progress goals that must be met for continued eligibility; (4-6-23)

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

iii. At the time of authorization the candidate must enroll in and work toward completion of the plan. The candidate must complete a minimum of nine (9) semester credits or equivalent annually to maintain eligibility for the interim certificate. The candidate must complete the plan to move to a standard instructional certificate. (4-6-23)

c. Career Technical Education Industry-based Route Plan. Local education agencies with candidates seeking a limited occupational specialist certification may request approval, with an approved division of career technical education alternative authorization route plan, to meet the program of study requirements. (4-6-23)

03. Alternative Authorization - Pupil Service Staff. This alternative authorization allows a local education agency to request interim certification and endorsement for a candidate when a position requiring the Pupil Service Staff Certificate cannot be filled. (4-6-23)

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

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

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

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

i. At the time of authorization the candidate must enroll in and work toward completion of a state

board approved educator preparation program through a participating college or university and the local education agency. The educator preparation program must include annual progress goals. (4-6-23)

ii. The candidate must complete a minimum of nine (9) semester credits or equivalent annually to maintain eligibility for the interim certificate. (4-6-23)

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

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

043. -- 059. (RESERVED)

060. APPLICATION PROCEDURES / PROFESSIONAL DEVELOPMENT.
To obtain a new, renew, or reinstate an Idaho Educator Credential, the applicant must submit an application on a form supplied by the State Department of Education or the Division of Career Technical Education as applicable to the type of certificate. All applications for new, renewed, or reinstated occupational specialist certificates must be submitted to the Division of Career Technical Education. The following requirements must be met to renew or reinstate an Idaho Educator Credential. (3-15-22)

01. State Board of Education Requirements for Professional Development. All certificated personnel must complete at least six (6) semester credit hours or equivalent professional development within the five (5) year validity period of the certificate being renewed. Pursuant to subsection 015.04 of these rules, standard occupational specialist may use industry experience to meet these requirements. ~~(3-15-22)~~( )

02. Credit. Graduate or undergraduate credit will be accepted for renewal. Credit must be transcripted and completed through a college or university accredited by an entity recognized by the state board of education. (3-15-22)

a. At least three (3) semester credits shall be taken for postsecondary credit and verified by official or unofficial transcript. Individuals found to have intentionally altered transcripts used for verification, who would have not otherwise met this renewal requirement, will be investigated for violations of the Code of Ethics for Idaho Professional Educators. Any such violations may result in disciplinary action. (3-15-22)

b. Credits taken for certificate renewal must be related to the individualized professional learning plan or the professional practice of the applicant. (3-15-22)

i. Credits must be specifically tied to content areas and/or an area of any other endorsement; or (3-15-22)

ii. Credits must be specific to pedagogical best practices or for administrative/teacher leadership; or (3-15-22)

iii. Credits must be tied to a specific area of need designated by local education agency administration. (3-15-22)

iv. Credits must be taken during the validity period of the certificate. (3-15-22)

c. All requests for equivalent in-service training to apply toward renewal, except occupational specialist certificates, must be approved by the local education agency. Individuals holding Occupational Specialist Certificates must make requests through the Division of Career Technical Education. Applicants must receive approval for in-service training and course work prior to applying for renewal. All in-service training must be aligned with the applicant's individualized professional learning plan or related to professional practice. Fifteen (15) contact hours are equivalent to one (1) semester credit. (3-15-22)

d. Pupil service staff certificate holders who hold a professional license through the appropriate Idaho state licensing board may use renewal of their professional license toward the renewal of their pupil service staff certificate in lieu of the requirements herein. (3-15-22)

e. Renewal credits may not be carried over from one (1) renewal period to the next. (3-15-22)

03. Professional Development Plans. Local education agencies will have professional development plans. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

100. OFFICIAL VEHICLE FOR APPROVING EDUCATOR PREPARATION PROGRAMS.

01. The Official Vehicle for the Approval of ~~Traditional~~ Educator Preparation Programs. ~~Traditional e~~ Educator preparation programs will be accredited by an accrediting body that approves educator preparation programs and is recognized by the state board of education and meets the board approved Idaho Standards for the Initial Certification of Professional School Personnel. The Idaho Standards for the Initial Certification of Professional School Personnel will be posted on the state board of education and state department of education websites. All standards will include an implementation date. ~~(4-6-23)~~( )

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

~~**a.** Assessment of pedagogy and content knowledge; and~~ ~~(3-15-22)~~

~~**b.** Alignment to the Idaho Standards for the Initial Certification of Professional School Personnel.~~ ~~(3-15-22)~~

0~~3~~2. **Continuing Approval**. Approved educator preparation programs will be reviewed for continued approval on a timeline and in a format established by the state board of education. Program reviews will take into consideration the instructional methodology used by the approved program. (3-15-22)

0~~4~~3. **Payment Responsibilities for Educator Preparation Program Reviews**. The Professional Standards Commission is responsible for Idaho educator preparation program reviews, including assigning responsibility for paying for program reviews. To implement the reviews, it is necessary that: (3-15-22)

a. The Professional Standards Commission pay for all state review team expenses for on-site teacher preparation reviews from its budget. (3-15-22)

b. Requesting institutions pay for all other expenses related to on-site educator preparation program reviews, including all standards review. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

111. BULLYING, HARASSMENT AND INTIMIDATION PREVENTION AND RESPONSE.

01. Dissemination of Information. School districts and charter schools shall make reasonable efforts to ensure that information on harassment, intimidation and bullying of students is disseminated annually to all school personnel, parents and students. (3-15-22)

02. Professional Development. The content of ongoing professional development for school staff related to bullying, harassment and intimidation shall include: (3-15-22)

a. School philosophy regarding school climate and student behavior expectations; (3-15-22)

b. Definitions of bullying, harassment, and intimidation; (3-15-22)

c. School prevention strategies or programs including the identification of materials to be distributed annually to students and parents; (3-15-22)

d. Expectations of staff intervention for bullying, harassment, and intimidation; (3-15-22)

e. School process for responding to bullying, harassment, and intimidation including the reporting process for students and staff, investigation protocol, the involvement of law enforcement, related student support services and parental involvement; and (3-15-22)

f. Other topics as determined appropriate by the school district or charter school. (3-15-22)

03. Graduated Consequences. Graduated consequences for a student who commits acts of bullying, harassment, and intimidation shall include a series of measures proportional to the act(s) committed and appropriate to the severity of the violation as determined by the school board of trustees, school administrators, or designated personnel depending upon the level of discipline. Graduated consequences should be in accordance with the nature of the behavior, the developmental age of the student, and the student's history of problem behaviors and performance. (3-15-22)

a. Graduated consequences may include, but are not limited to: (3-15-22)

i. Meeting with the school counselor; (3-15-22)

ii. Meeting with the school principal and student's parents or guardian; (3-15-22)

iii. Detention, suspension or special programs; and (3-15-22)

iv. Expulsion. (3-15-22)

b. The graduated consequences are not intended to prevent or prohibit the referral of a student who commits acts of harassment, intimidation or bullying to available outside counseling services or to law enforcement, or both, pursuant to Section 18-917A, Idaho Code. (3-15-22)

c. Students with disabilities may be afforded additional protections under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act; school districts and charter schools shall comply with applicable state and federal law when disciplining students with individualized education programs (IEPs) or 504 plans for committing acts of bullying, harassment, and intimidation. (3-15-22)

04. Intervention. School district and charter school employees are authorized and expected to intervene or facilitate intervention on behalf of students facing harassment, intimidation, and bullying. Intervention shall be reasonably calculated to: (3-15-22)

a. Correct the problem behavior; (3-15-22)

b. Prevent another occurrence of the problem; (3-15-22)

c. Protect and provide support for the victim of the act; and (3-15-22)

d. Take corrective action for documented systemic problems related to harassment, intimidation, or bullying. (3-15-22)

~~**05. Reporting**. Annual reporting will occur at the end of the school year through an aggregate report identifying the total number of bullying incidents by school districts and charter schools, grade level, gender, and repeat offenders. The State Department of Education shall provide school districts and charter schools with the guidelines and forms for reporting.~~ ~~(3-15-22)~~

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-2602

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 33-105, 33-107, 33-116, 33-1612, and 33-1631 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking may be scheduled if deemed necessary by the agency based on stakeholder feedback or other considerations. Public hearing(s) will also be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

This rulemaking updates Section 004.02, Operating Procedures for Idaho Public Driver Education Programs (Incorporation by Reference), within IDAPA 08.02.02. The proposed rule revises incorporated materials to remove outdated references to INACOL standards and updates provisions related to instructional delivery methods, including online coursework and instructor requirements.

These changes ensure the incorporated Operating Procedures reflect current instructional practices, clarify requirements for program implementation, and improve consistency in the application of driver education program standards.

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

There are no fees being impacted as a result of this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2026, Idaho Administrative Bulletin, Volume 26-6 pg. 13.

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:

Changes to the Idaho Public Driver Education Program Manual include the removal of references to the now-obsolete International Association for K-12 Online Learning in sections 1.2.1.1, 2.2.2, and 2.8.3. In addition, the requirement in section 3.5 for driver education instructors to receive a medical examination has been removed as to classroom-only instructors.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or 208-488-7586.

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 28, 2026.

DATED this 25th day of August, 2026.

Nicholas Wagner
Agency Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Phone: (208)488-7586
Fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-2602
(Only Those Sections With Amendments Are Shown.)

08.02.02 – RULES GOVERNING UNIFORMITY

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

01. Standards for Idaho School Buses and Operations as approved on August 24, 2022. The Standards for Idaho School Buses and Operations are available at the Idaho State Department of Education, 650 W. State St., Boise Idaho, 83702 and can also be accessed electronically at https://boardofed.idaho.gov. (4-6-23)

02. Operating Procedures for Idaho Public Driver Education Programs as approved on ~~June 16, 2016~~ August 13, 2026. The Operating Procedures for Idaho Public Driver Education Programs are available at the Idaho State Department of Education, 650 W. State St., Boise, Idaho, 83702 and can also be accessed electronically at https://boardofed.idaho.gov. ~~(3-15-22)~~( )

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.02 – RULES GOVERNING UNIFORMITY

DOCKET NO. 08-0202-2603

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking may be scheduled if deemed necessary by the agency based on stakeholder feedback or other considerations. Public hearing(s) will also be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

This rulemaking will consider revisions to Sections 012 and 014 of IDAPA 08.02.02 – Rules Governing Uniformity to remove the word "regional" from references to accreditation. The proposed rulemaking will focus on updating terminology to reflect current federal practices and ensure consistent application of educator certification requirements.

The purpose of this rulemaking is to remove the outdated modifier "regional" from references to accreditation. The U.S. Department of Education no longer distinguishes between regional and national accrediting agencies. Retaining the term "regional" may result in inconsistent interpretation of accreditation requirements for educator certification. Removing the term supports clarity, consistency, and alignment with current accreditation recognition practices.

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

There are no fees being impacted as a result of this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Idaho Administrative Bulletin, Volume 26-7 pg. 48.

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

No documents incorporated by reference are impacted by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or 208-488-7586.

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 28, 2026.

DATED this 25th day of August, 2026.

Nicholas Wagner
Agency Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Phone: (208)488-7586
Fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0202-2603
(Only Those Sections With Amendments Are Shown.)

012. ACCREDITED INSTITUTION.
For purposes of educator certification, an accredited school, college, university, or other educator training institution is considered by the Idaho State Board of Education to be one that is accredited by ~~a regional~~ an accrediting association recognized by the State Board of Education or an alternative or non-traditional model approved by the State Board of Education. ~~(3-15-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

014. CERTIFICATES ISSUED TO APPLICANTS FROM ~~REGIONALLY~~ ACCREDITED INSTITUTIONS.
Idaho certificates may be issued to applicants completing accredited educator preparation programs from ~~regionally~~ accredited institutions recognized by the state board of education meeting requirements for certification or equivalent in other states when they substantially meet the requirements for a standard Idaho educator certificate. ~~(4-6-23)~~( )

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-2601

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking may be scheduled if deemed necessary by the agency based on stakeholder feedback or other considerations. Public hearing(s) will also be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

This rulemaking updates Section 105, High School Graduation Requirements, and Section 111, Assessment, within IDAPA 08.02.03. The proposed rule clarifies civics and government proficiency provisions, including recognition of alternate pathways for demonstrating proficiency, and provides clarification to the digital literacy graduation credit, which applies to students graduating after January 1, 2028, without changing existing credit totals.

The rule also revises assessment provisions for limited English proficient (LEP) students, including clarifying participation and exemption language for newly enrolled students with respect to statewide assessments.

These updates align rule language with current State Board of Education policy, recent legislative action, and federal requirements, and improve clarity and consistency in the application of graduation and assessment requirements.

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

There are no fees being impacted as a result of this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2026, Idaho Administrative Bulletin, Volume 26-6 pg. 15.

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:

No documents incorporated by reference are impacted by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or 208-488-7586.

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 28, 2026.

DATED this 25th day of August, 2026.

Nicholas Wagner
Agency Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Phone: (208)488-7586
Fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-2601
(Only Those Sections With Amendments Are Shown.)

08.02.03 – RULES GOVERNING THOROUGHNESS

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

01. Credit Requirements. The State minimum graduation requirement for all Idaho public high schools is forty-six (46) credits and must include ~~twenty nine~~ thirty (~~29~~30) credits in core subjects as identified in Paragraphs 105.01.c. through 105.01.~~h~~i. ~~(3-15-22)~~( )

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

b. Mastery. Students must demonstrate mastery of Idaho Content Standards in a format provided by the LEA. Notwithstanding the credit definition of Subsection 105.01.a., a student may also achieve credits by demonstrating mastery of a subject's content standards as defined and approved by the LEA. (7-1-25)

c. Credit Flexibility. The State Department of Education will support LEAs in the development of crosswalks and templates to assist in awarding credit for learning opportunities in ways that meet course requirements for high school graduation. (7-1-25)

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

e. Mathematics. Six (6) credits are required. Secondary mathematics includes Integrated Mathematics, Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of

Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and quantitative reasoning including mathematics taken through career technical education programs. Engineering courses and computer science courses aligned to the state standards for grades nine (9) through (12), may be counted as a mathematics credit. Students who choose to take computer science or engineering courses may not concurrently count such courses as both a mathematics and science credit for the same course. (7-1-25)

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

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

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

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

f. Science. Six (6) credits are required. Four (4) credits are required from at least two (2) of the four (4) content areas: physics, chemistry, earth and space, or life science. An additional two (2) credits in secondary sciences may include instruction in applied sciences, physics, chemistry, earth and space sciences, life sciences, engineering, or computer science. Students who choose to take computer science or engineering courses may not concurrently count such courses as both a mathematics and science credit for the same course. (7-1-25)

g. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics and financial literacy (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (4-6-23)

h. Fine Arts or World Languages. Two (2) credits are required. Courses include instruction in visual arts, music, theatre, dance, or world languages aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Interdisciplinary Humanities Content Standards. (7-1-25)

i. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Each student shall receive a minimum of one (1) training on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (7-1-25)

j. Digital Literacy. One (1) credit is required. ~~The c~~ Course must be aligned to the Idaho Digital Literacy Standards and include instruction ~~that aligns with Idaho Content Standards associated with~~ in leveraging technology, digital citizenship, and computational thinking ~~which are imbedded in the Information and Communication Technology Content Standards,~~ and ~~with~~ leveraging the impacts of computing, algorithms, and programming~~, which are embedded in the Computer Science Standards~~. This requirement will apply to any student graduating after January 1, 2028. ~~(7-1-25)~~( )

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

03. Senior Project. The senior project is a culminating project to show a student's ability to analyze, synthesize, and evaluate information and communicate that knowledge and understanding. A student must complete a senior project by the end of grade twelve (12). Senior projects may be multi-year projects, group or individual projects, or approved pre-internship or school to work internship programs, at the discretion of the school district or charter school. The project must include elements of research, development of a thesis using experiential learning or integrated project based learning experiences and presentation of the project outcome. Additional requirements for a senior project are at the discretion of the local school district or LEA. Completion of a postsecondary certificate or degree at the time of high school graduation or an approved pre-internship or internship program may be used to meet this requirement. The senior project will last apply for the class of 2027, unless an LEA opts to early implement the

future readiness project. (7-1-25)

04. Future Readiness Project. The future readiness project is a culminating project that demonstrates a student's application of college and career competencies and exploration of potential post high school options. All students beginning with the class of 2028 must complete a future readiness project by the end of grade twelve (12). The project must include an experiential component, such as a work-based, service-based, research-based, or portfolio-based component in which a student demonstrates the acquisition of Idaho college and career competencies. Experiences including, but not limited to apprenticeships, internships, volunteer work and extracurricular activities related to real-world skills acquisition will count toward this requirement. LEAs must determine how students will demonstrate the acquisition of college and career competencies and may require additional components. The State Department of Education will provide templates for LEAs and oversee the implementation of this provision. (7-1-25)

05. Localized Pathways. In order to assist students in structuring their secondary course selection electives, assessment, and supplemental activities, all LEAs shall develop and post publicly two or more localized pathways. Localized pathways are designed to inform students and parents/guardians of local opportunities aligned with post-secondary goals as identified in the student's career pathway plan. The State Department of Education shall support the implementation of this provision. This provision must be implemented by all LEAs no later than June 30, 2026. (7-1-25)

06. Civics and Government Proficiency. Pursuant to Section 33-1602, Idaho Code, each LEA may establish an alternate path for determining if a student has met the state civics and government content standards. Alternate paths are open to all students in grades ~~seven~~ nine (~~7~~9) through twelve (12.) Any student who has been determined proficient in the state civics and government content standards either through the completion of the civics test or an alternate path shall have it noted on the student's high school transcript. ~~(3-15-22)~~( )

07. Physical Education. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the Physical Education Content Standards in a format provided by the LEA. (7-1-25)

08. Middle School. A student will have met the high school content and credit area requirement for any high school course if the requirements outlined in Subsections 105.08.a. through 105.08.c. of this rule are met. (7-1-25)

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

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

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

d. The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course will be transferred to the student's high school transcript. Notwithstanding this requirement, the student's parent or guardian shall be notified in advance when credits are going to be transcribed and may elect to not have the credits and grade transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.d. through 105.01.i. except as provided in 105.01.e.i. The transcribing high school is required to verify the course meets the requirements specified in Subsections 105.08.a. through 105.08.c. of this rule. (7-1-25)

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

Manual specifications. (3-15-22)

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

(BREAK IN CONTINUITY OF SECTIONS)

111. ASSESSMENT IN THE PUBLIC SCHOOLS.

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

02. Purposes. The purpose of assessment in the public schools is to: (3-15-22)

a. Measure and improve student achievement; (3-15-22)

b. Assist classroom teachers in designing lessons; (3-15-22)

c. Identify areas needing intervention and remediation, and acceleration; (3-15-22)

d. Assist school districts in evaluating local curriculum and instructional practices in order to make needed curriculum adjustments; (3-15-22)

e. Inform parents and guardians of their child's progress; (3-15-22)

f. Provide comparative local, state and national data regarding the achievement of students in essential skill areas; (3-15-22)

g. Identify performance trends in student achievement across grade levels tested and student growth over time; and (3-15-22)

h. Help determine technical assistance/consultation priorities for the State Department of Education. (3-15-22)

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

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

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

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

c. Limited English Proficient (LEP) students, as defined in Subsection 112.05.g.iv., may receive

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

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

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

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

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

a. Kindergarten - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

b. Grade 1 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

c. Grade 2 - Idaho Reading Indicator, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

d. Grade 3 - Idaho Reading Indicator, Grade 3 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

e. Grade 4 - National Assessment of Educational Progress, Grade 4 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

f. Grade 5 - Grade 5 Idaho Standards Achievement Tests in English language usage, mathematics, and science; Idaho Alternate Assessment; Idaho English Language Assessment. (3-15-22)

g. Grade 6 - Grade 6 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

h. Grade 7 - Grade 7 Idaho Standards Achievement Tests in English language usage and mathematics, Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

i. Grade 8 - National Assessment of Educational Progress; Grade 8 Idaho Standards Achievement Tests in English language usage, mathematics, and science; Idaho Alternate Assessment; Idaho English Language

Assessment. (3-15-22)

j. Grade 9 - High School Idaho Standards Achievement Tests (optional at the discretion of the school district or charter school), Idaho Alternate Assessment, Idaho English Language Assessment. (3-15-22)

k. Grade 10 - High School Idaho Standards Achievement Tests (optional at the discretion of the school district or charter school), Idaho Alternate Assessment, Idaho English Language Assessment. (4-6-23)

l. Grade 11 - High School Idaho Standards Achievement Test in English language usage and mathematics, science, Idaho Alternate Assessment, Idaho English Language Assessment, and college entrance exam (optional at the discretion of the student's parent). (4-6-23)

m. Grade 12 - National Assessment of Educational Progress, Idaho English Language Assessment, and college entrance exam (optional at the discretion of the student's parent). (4-6-23)

07. Comprehensive Assessment Program Schedule. (3-15-22)

a. The Idaho Standards Achievement Tests will be administered in the Spring in a time period specified by the State Board of Education. (3-15-22)

b. The Idaho Alternate Assessment will be administered in a time period specified by the State Board of Education. (3-15-22)

c. Idaho's English Language Assessment will be administered in a time period specified by the State Board of Education. (3-15-22)

08. Achievement Standards. Assessment achievement standards, development standards, and performance level descriptors will be set by the State Board of Education in a schedule and format established by the Board and will be made available through the State Board of Education and Department of Education websites. Achievement standards, development standards, and performance level descriptors include, but are not limited to: (4-6-23)

a. The Idaho English Language Proficiency Assessment Achievement Standards. (4-6-23)

b. The Idaho Standards Achievement Tests (ISAT) Achievement Standards. (4-6-23)

c. The Idaho Alternate Assessment Achievement Standards. (4-6-23)

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

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

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

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

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

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

a. Test security is of the utmost importance. To ensure integrity of secure test items and protect validity and reliability of test outcomes, test security must be maintained. School districts will employ security

measures in protecting statewide assessment materials from compromise. Each individual who has any opportunity to see test items must sign a state-provided confidentiality agreement, which the district must keep on file in the district for at least two (2) years. Documentation of security safeguards must be available for review by authorized state and federal personnel. (3-15-22)

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

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

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

a. The Idaho Standards Achievement Tests (grades 3-8 and High School). (3-15-22)

b. A portfolio demonstrating grade level proficiency in at least five (5) of the subject areas listed in Subsections 111.13.b.i. through 111.13.b.vi. Portfolios are to be judged and confirmed by a committee comprised of at least one (1) teacher from each subject area presented in the portfolio and the building principal at the school where dual enrollment is desired. (3-15-22)

i. Language Arts/Communications. (3-15-22)

ii. Math. (3-15-22)

iii. Science. (3-15-22)

iv. Social Studies. (3-15-22)

v. Health. (3-15-22)

vi. Humanities. (3-15-22)

IDAPA 08 – STATE BOARD OF EDUCATION

08.02.03 – RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-2602

NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking may be scheduled if deemed necessary by the agency based on stakeholder feedback or other considerations. Public hearing(s) will also be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

This rulemaking updates Section 004.01, Incorporation by Reference, within IDAPA 08.02.03 to revise the Idaho Content Standards included in rule. The proposed rule updates incorporated content standards to reflect newly adopted or revised standards approved by the State Board of Education, including Digital Literacy, Artificial Intelligence, Civics, and Mathematics.

The rule also restores core academic content standards, including English Language Arts, Mathematics, and Science, to the incorporated by reference list and updates language related to College and Career Readiness Competencies.

These updates ensure the incorporated content standards accurately reflect current State Board of Education approvals and improve clarity and consistency between administrative rule and instructional practice.

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

There are no fees being impacted as a result of this rulemaking.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2026, Idaho Administrative Bulletin, Volume 26-6 pg. 14.

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

The Idaho Department of Education (IDE) is requesting the State Board of Education promulgate rules and incorporated by reference documents regarding content standards in IDAPA 08.02.03. The math content standards were due for cyclical review. The proposed revisions are based on feedback from the review committee. Content standards proposed for Digital Literacy and Artificial Intelligence were drafted as required by legislative action. Finally, the IDE conducted a review of the Idaho Career Readiness Competencies. On June 17, 2026, the State Board of Education approved the IDE's recommendation to move forward with the proposed changes to reflect this work.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov or 208-488-7586.

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 28, 2026.

DATED this 25th day of August, 2026.

Nicholas Wagner
Agency Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Phone: (208)488-7586
Fax: (208)334-2632

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 08-0203-2602
(Only Those Sections With Amendments Are Shown.)

08.02.03 – RULES GOVERNING THOROUGHNESS

004. INCORPORATION BY REFERENCE.
The following documents are incorporated into this rule: (3-15-22)

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

a. Arts and Humanities Categories: (3-15-22)

i. Dance, as revised and adopted on June 12, 2024; (7-1-25)

ii. Interdisciplinary Humanities, as revised and adopted on June 12, 2024; (7-1-25)

iii. Media Arts, as adopted on June 12, 2024. (7-1-25)

iv. Music, as revised and adopted on June 12, 2024; (7-1-25)

v. Theater, as revised and adopted on June 12, 2024; (7-1-25)

vi. Visual Arts, as revised and adopted on June 12, 2024; (7-1-25)

vii. World languages, as revised and adopted on June 12, 2024. (7-1-25)

b. Computer Science, adopted on June 12, 2024. (7-1-25)

c. Driver Education, as revised and adopted on June 12, 2024. (7-1-25)

d. Health, as revised and adopted on August 24, 2022. (4-6-23)

e. Information and Communication Technology, as revised and adopted on June 12, 2024. (7-1-25)

f. Physical Education, as revised and adopted on August 24, 2022. (4-6-23)

g. Social Studies, as revised and adopted on November 20, 2025. (7-1-26)

h. ~~College and~~Idaho Career Readiness Competencies adopted on June~~ 15, 2017~~ 17, 2026. ~~(3-15-22)~~( )

i. Mathematics, as revised and adopted on August 13, 2026. ( )

j. Digital Literacy (9-12), as adopted on August 13, 2026. ( )

k. Artificial Intelligence, as adopted on August 13, 2026. ( )

l. English Language Arts, as adopted on January 3, 2022. ( )

m. Science, as adopted on January 3, 2022. ( )

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

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

04. The Idaho Special Education Manual. The Idaho Special Education Manual as adopted by the State Board of Education on November 20, 2025. Copies of the document can be found on the State Board of Education website at https://boardofed.idaho.gov/board-policies-rules/board-rules/documents-incorporated-by-reference-or-rule/. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

105. HIGH SCHOOL GRADUATION REQUIREMENTS.

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

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

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

b. Mastery. Students must demonstrate mastery of Idaho Content Standards in a format provided by the LEA. Notwithstanding the credit definition of Subsection 105.01.a., a student may also achieve credits by

demonstrating mastery of a subject's content standards as defined and approved by the LEA. (7-1-25)

c. Credit Flexibility. The State Department of Education will support LEAs in the development of crosswalks and templates to assist in awarding credit for learning opportunities in ways that meet course requirements for high school graduation. (7-1-25)

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

e. Mathematics. Six (6) credits are required. Secondary mathematics includes Integrated Mathematics, Applied Mathematics, Business Mathematics, Algebra, Geometry, Trigonometry, Fundamentals of Calculus, Probability and Statistics, Discrete Mathematics, and courses in mathematical problem solving and quantitative reasoning including mathematics taken through career technical education programs. Engineering courses and computer science courses aligned to the state standards for grades nine (9) through (12), may be counted as a mathematics credit. Students who choose to take computer science or engineering courses may not concurrently count such courses as both a mathematics and science credit for the same course. (7-1-25)

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

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

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

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

f. Science. Six (6) credits are required. Four (4) credits are required from at least two (2) of the four (4) content areas: physics, chemistry, earth and space, or life science. An additional two (2) credits in secondary sciences may include instruction in applied sciences, physics, chemistry, earth and space sciences, life sciences, engineering, or computer science. Students who choose to take computer science or engineering courses may not concurrently count such courses as both a mathematics and science credit for the same course. (7-1-25)

g. Social Studies. Five (5) credits are required, including government (two (2) credits), United States history (two (2) credits), and economics and financial literacy (one (1) credit). Courses such as geography, sociology, psychology, and world history may be offered as electives, but are not to be counted as a social studies requirement. (4-6-23)

h. Fine Arts or World Languages. Two (2) credits are required. Courses include instruction in visual arts, music, theatre, dance, or world languages aligned to the Idaho content standards for those subjects. Other courses such as literature, history, philosophy, architecture, or comparative world religions may satisfy the humanities standards if the course is aligned to the Interdisciplinary Humanities Content Standards. (7-1-25)

i. Health/Wellness. One (1) credit is required. Course must be aligned to the Idaho Health Content Standards. Each student shall receive a minimum of one (1) training on psychomotor cardiopulmonary resuscitation (CPR) training as outlined in the American Heart Association (AHA) Guidelines for CPR to include the proper utilization of an automatic external defibrillator (AED) as part of the Health/Wellness course. (7-1-25)

j. Digital Literacy. One (1) credit is required. The course must include instruction that aligns with Idaho Content Standards associated with leveraging technology, digital citizenship, and computational thinking which are imbedded in the Information and Communication Technology Content Standards, and with leveraging the impacts of computing, algorithms, and programming, which are embedded in the Computer Science Standards. This requirement will apply to any student graduating after January 1, 2028. (7-1-25)

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

03. Senior Project. The senior project is a culminating project to show a student's ability to analyze, synthesize, and evaluate information and communicate that knowledge and understanding. A student must complete a senior project by the end of grade twelve (12). Senior projects may be multi-year projects, group or individual projects, or approved pre-internship or school to work internship programs, at the discretion of the school district or charter school. The project must include elements of research, development of a thesis using experiential learning or integrated project based learning experiences and presentation of the project outcome. Additional requirements for a senior project are at the discretion of the local school district or LEA. Completion of a postsecondary certificate or degree at the time of high school graduation or an approved pre-internship or internship program may be used to meet this requirement. The senior project will last apply for the class of 2027, unless an LEA opts to early implement the future readiness project. (7-1-25)

04. Future Readiness Project. The future readiness project is a culminating project that demonstrates a student's application of college and career competencies and exploration of potential post high school options. All students beginning with the class of 2028 must complete a future readiness project by the end of grade twelve (12). The project must include an experiential component, such as a work-based, service-based, research-based, or portfolio-based component in which a student demonstrates the acquisition of Idaho ~~college and~~ career readiness competencies. Experiences including, but not limited to apprenticeships, internships, volunteer work and extracurricular activities related to real-world skills acquisition will count toward this requirement. LEAs must determine how students will demonstrate the acquisition of college and career competencies and may require additional components. The State Department of Education will provide templates for LEAs and oversee the implementation of this provision. ~~(7-1-25)~~( )

05. Localized Pathways. In order to assist students in structuring their secondary course selection electives, assessment, and supplemental activities, all LEAs shall develop and post publicly two or more localized pathways. Localized pathways are designed to inform students and parents/guardians of local opportunities aligned with post-secondary goals as identified in the student's career pathway plan. The State Department of Education shall support the implementation of this provision. This provision must be implemented by all LEAs no later than June 30, 2026. (7-1-25)

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

07. Physical Education. Students participating in one (1) season in any sport recognized by the Idaho High School Activities Association or club sport recognized by the local school district, or eighteen (18) weeks of a sport recognized by the local school district may choose to substitute participation up to one (1) credit of physical education. Students must show mastery of the Physical Education Content Standards in a format provided by the LEA. (7-1-25)

08. Middle School. A student will have met the high school content and credit area requirement for any high school course if the requirements outlined in Subsections 105.08.a. through 105.08.c. of this rule are met. (7-1-25)

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

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

c. The course is taught by a teacher properly certified to teach high school content and who meets the

federal definition of highly qualified for the course being taught. (3-15-22)

d. The student shall be given a grade for the successful completion of that course and such grade and the number of credit hours assigned to the course will be transferred to the student's high school transcript. Notwithstanding this requirement, the student's parent or guardian shall be notified in advance when credits are going to be transcribed and may elect to not have the credits and grade transferred to the student's high school transcript. Courses taken in middle school appearing in the student's high school transcript, pursuant to this subsection, shall count for the purpose of high school graduation. However, the student must complete the required number of credits in all high school core subjects as identified in Subsections 105.01.d. through 105.01.i. except as provided in 105.01.e.i. The transcribing high school is required to verify the course meets the requirements specified in Subsections 105.08.a. through 105.08.c. of this rule. (7-1-25)

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

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

IDAPA 08 – STATE BOARD OF EDUCATION

08.06.01 – RULES GOVERNING THE K-12 AND POSTSECONDARY EDUCATION SYSTEM

DOCKET NO. 08-0601-2601 (NEW CHAPTER)

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

GOVERNOR'S STATEMENT: An earlier effective date prior to legislative review is required in accordance with the provisions of Idaho Code Section 67-5226(2)(b) to comply with amendments to governing law that became effective June 30, 2026, due to the United States Supreme Court decision to uphold the Idaho Fairness in Women's Sports Act.

EFFECTIVE DATE: The effective date of the temporary rule is August 12, 2026.

AUTHORITY: In compliance with Idaho Code Sections 67-5226 notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Idaho Code Sections 33-105, 33-107, 33-116, 33-1612, and 33-6203.

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

Thursday, October 22, 2026 **9:00 a.m. (MT)**
In Person: **Idaho State Capital** **Room WW53** **700 W Jefferson St** **Boise, ID 83702** **Virtual:** **Zoom: https://us02web.zoom.us/j/87205608181** **Meeting ID: 872 0560 8181**

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

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

This rulemaking establishes procedures for schools, local education agencies, and public institutions of higher education to receive, review, document, and resolve disputes regarding a student's biological sex for purposes of athletic participation pursuant to Idaho Code Section 33-6203. The rule establishes requirements for dispute submissions, designation of responsible administrators, notices, documentation review, written resolutions, and confidentiality to support consistent statewide implementation of the Fairness in Women's Sports Act. The temporary rule is being adopted following the June 30, 2026, United States Supreme Court decision upholding Idaho's Fairness in Women's Sports Act and is intended to provide a uniform administrative process while the permanent rulemaking process is completed.

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

There are no fees imposed or 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: NA.

NEGOTIATED RULEMAKING: Pursuant to Idaho Code Section 67-5220(2) negotiated rulemaking was not conducted because the June 30, 2026, decision upholding the Fairness in Women's Sports Act created an immediate need to establish procedures required by Idaho Code Section 33-6203(3). Conducting negotiated rulemaking was not feasible prior to consideration of the temporary and proposed rule. Stakeholder input will be solicited during the public comment process.

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:

No documents have been incorporated by reference as a result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Nicholas Wagner at rules@edu.idaho.gov, 208-488-7586.

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 28, 2026.

DATED this 25th day of August, 2026.

Nicholas Wagner
Agency Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, ID 83720-0037
Phone: (208)488-7586
Fax: (208)334-2632

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 08-0601-2601
(New Chapter)

08.06.01 – RULES GOVERNING THE K-12 AND POSTSECONDARY EDUCATION SYSTEM

000. LEGAL AUTHORITY.
Article IX, Section 2 of the Idaho Constitution and Sections 33-105, 33-107, 33-116, 33-1612, and 33-6203, Idaho Code. (8-12-26)T

001. SCOPE.
Uniform and thorough standards by the State Board of Education to address issues and processes that impact more than one (1) entity under the Board's governance in support of the implementation of a coherent K-20 public education system. (8-12-26)T

002. DEFINITIONS.

01. Institution of Higher Education. Referred to as an institution in this rule, is defined as any accredited public university or community college in Idaho, or any public professional-technical school operated by the state of Idaho or any political subdivision thereof. (8-12-26)T

02. Local Education Agency (LEA). An Idaho public school district or charter school pursuant to Section 33-5203(8), Idaho Code. (8-12-26)T

003. – 009. (RESERVED)

010. RESOLUTION OF ATHLETIC PARTICIPATION DISPUTES.

01. Scope. These rules establish procedures for the receipt and timely resolution of disputes regarding a student's biological sex under Section 33-6203, Idaho Code. (8-12-26)T

02. Designated Administrator. Each institution and school shall identify a designated administrator responsible for resolving disputes under Section 33-6203, Idaho Code. Each institution, school, and LEA shall publish the name and contact information for the designated administrator on its website. (8-12-26)T

a. A local education agency (LEA) with more than one school may identify a single designated administrator for all schools under its governance. (8-12-26)T

b. Each institution, school, or LEA shall identify an alternate for the designated administrator in cases of a reasonable conflict of interest or lack of availability to address a dispute. For purposes of this chapter, if an alternate is identified, all references to the "designated administrator" shall apply to the alternate only for the duration of the dispute. (8-12-26)T

c. The designated administrator shall process athletic disputes including: (8-12-26)T

i. Receipt of disputes. (8-12-26)T

ii. Providing required notices. (8-12-26)T

iii. Receiving documentation to verify the student's biological sex as required by Section 33-6203, Idaho Code. (8-12-26)T

iv. Maintaining confidential records. (8-12-26)T

v. Issuing a written resolution. (8-12-26)T

03. Content of Dispute. A written dispute shall be submitted electronically or via certified mail to the designated administrator. (8-12-26)T

a. The written dispute submission shall include: (8-12-26)T

i. The name and contact information of the student who is deprived of an athletic opportunity or suffers a direct or indirect harm (dispute initiator). If the dispute initiator is a minor, the name and contact information of the student's parent or legal guardian shall be provided and the student's parent or legal guardian shall then constitute the dispute initiator. (8-12-26)T

ii. The name of the student whose biological sex is in question and identification of that student's applicable interscholastic, intercollegiate, intramural, or club athletic teams or sports. (8-12-26)T

iii. A statement describing the factual basis for the dispute. (8-12-26)T

04. Review and Notices. As soon as is practicable and no later than five (5) business days of receipt of a dispute, the designated administrator shall conduct an initial review and issue the applicable notices as outlined in

Subsections 010.04.a. and 010.04.b. below. (8-12-26)T

a. Notice to Dispute Initiator. (8-12-26)T

i. If the dispute does not include the required information as outlined in Subsection 010.03.a., the designated administrator shall notify the dispute initiator that the dispute is declined due to failure to provide information required by rule. Dispute submissions may not be amended or supplemented, but a new submission may be prepared and re-submitted for review. (8-12-26)T

ii. If the institution or school has documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, on file, the designated administrator may decline further investigation and include notification that the matter is closed in the acknowledgment of receipt. (8-12-26)T

iii. If the dispute is eligible for review, the designated administrator shall provide the dispute initiator with an acknowledgement of receipt. (8-12-26)T

b. Notice to Student Whose Biological Sex is in Question. (8-12-26)T

i. If the dispute is declined pursuant to Subsection 010.04.a.i. or 010.04.a.ii., no notification is required to the student or the minor student's parent or legal guardian. (8-12-26)T

ii. If the dispute is eligible for review, the designated administrator shall provide the student or the minor student's parent or legal guardian with a notification of dispute. (8-12-26)T

(1) If the institution or school does not have documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, on file, the notification of dispute shall include a statement of documentation required by Section 33-6203(3), Idaho Code, to be submitted pursuant to Subsection 010.05. The dispute shall be addressed per Subsection 010.06. (8-12-26)T

05. Documentation. The designated administrator shall accept documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code. (8-12-26)T

a. If the institution or school has documentation verifying the student's biological sex as required by Section 33-6203, Idaho Code, on file, such as an athletic physical form, the designated administrator shall use said documentation. (8-12-26)T

b. If the institution or school does not have documentation verifying the student's biological sex as required by Section 33-6203, Idaho Code, on file, the student or the minor student's parent or legal guardian shall submit documentation from the student's personal health care provider in the manner required in Section 33-6203(3), Idaho Code, or shall arrange for the submission of such documentation directly from the student's personal health care provider to the designated administrator. (8-12-26)T

c. The designated administrator shall not require or request documentation different from or in addition to that required by Section 33-6203(3), Idaho Code. (8-12-26)T

06. Review and Resolution. As soon as is practicable and no later than five (5) business days of receipt of documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, the designated administrator shall review the dispute and the submitted documentation, and issue a written resolution. (8-12-26)T

a. The designated administrator shall issue a written resolution to the student whose biological sex is in question or the minor student's parent or legal guardian. The written resolution shall confirm that the designated administrator has received documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, and shall indicate the student's biological sex as stated in the documentation. (8-12-26)T

b. The designated administrator shall notify the dispute initiator that the matter has been closed. (8-12-26)T

07. Confidentiality. Records created or received pursuant to these rules shall be maintained in accordance with applicable law. (8-12-26)T

a. The identity of the dispute initiator shall be limited to individuals whose participation is reasonably necessary to resolve the dispute. (8-12-26)T

b. The identity of the student whose biological sex is in question, the documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, and the written resolution shall be limited to individuals whose participation is reasonably necessary to resolve the dispute and individuals whose participation is reasonably necessary to determine eligibility for participation in applicable interscholastic, intercollegiate, intramural, or club athletic teams or sports consistent with Section 33-6203, Idaho Code. (8-12-26)T

c. The documentation verifying the student's biological sex as required by Section 33-6203(3), Idaho Code, shall be maintained separately from general student educational records. (8-12-26)T

d. Disclosure of documentation shall occur only as authorized or required by law. (8-12-26)T

e. If a student transfers institutions or schools, the student may request a copy of the written resolution. The release shall be limited to the written resolution documentation. (8-12-26)T

011. – 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE
PEACE OFFICER STANDARDS AND TRAINING COUNCIL

11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-2601

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 19-5107, Idaho Code.

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

Tuesday, October 13, 2026
10:00 a.m. (MT)

In Person:
Idaho Peace Officer Standards and Training Facility
Building 3, Plott Board Room
700 South Stratford Drive
Meridian, ID 83642

Virtual:

https://teams.microsoft.com/meet/262618665232301?p=N72GVyDvvd5ZhQboeU
Meeting ID: 262 618 665 232 301
Passcode: Vy9Jo7of

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

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

In accordance with Section 67-5292, Idaho Code, this agency is reviewing IDAPA 11.11.01 to assess whether the content of the rule chapter is still necessary. This proposed rule reduces regulatory burden by eliminating unnecessary or outdated requirements, including the removal of the Marine Deputy-specific provisions, and clarifying existing requirements where additional guidance is needed. The reduction in rules decreases administrative requirements and removes provisions that no longer serve a necessary regulatory purpose. The added clarification provides individuals and agencies with clearer direction and reduces uncertainty when interpreting and complying with POST requirements. These changes streamline the regulatory process while maintaining the standards necessary for effective peace officer training, certification, and public safety.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees being impacted 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 as a result of this rulemaking: NA.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Idaho Administrative Bulletin, Vol. 26-7 Pages 50-51.

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: No documents incorporated by reference are impacted by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kelsey Woodward, email: kelsey.woodward@post.idaho.gov, phone: (208) 884-7253.

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 28, 2026.

DATED this 13th day of August, 2026.

Lt. Colonel Russ Wheatley, Chief of Staff
Idaho State Police
700 S. Stratford Drive Meridian, ID 83642
(208) 884-7004
Russ.wheatley@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1101-2601
(Only Those Sections With Amendments Are Shown.)

11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

004. ADMINISTRATIVE PROCEDURES ACT.
Rules of procedure in contested cases ~~and administrative appeals~~ will be governed by the administrative procedures act, (Title 67, Chapter 52, Idaho Code), and these rules. ~~(3-31-22)~~( )

005. – 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions under 19-5101, Idaho Code, the following terms apply: (3-31-22)

01. Accredited. Accredited by an institutional or programmatic accrediting agency as defined and recognized by the US Department of Education and identified by the Council for Higher Education Accreditation. POST will only accept degrees and/or credits from an accredited institution. ( )

0~~1~~2. Act. Title 19, Chapter 51, of the Idaho Code. (3-31-22)

0~~2~~3. Agency. A law enforcement agency which is a part of or administered by the state of Idaho or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; an adult misdemeanor probation department, a Public-Safety Answering Point (PSAP); the Idaho Department of Juvenile Corrections; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the a private correctional facility. (3-31-22)

034. **Agency Head**. A chief of police of a city, sheriff of a county or chief administrator of a law enforcement agency, as defined herein. (3-31-22)

045. **Applicant**. A person applying to participate in a POST training program or applying for POST certification. (3-31-22)

056. **Basic Training Academy**. A basic course of Council approved instruction in a discipline certified by POST. (3-31-22)

067. **Canine Team**. A specific person and a specific dog controlled by that person as its handler, formally assigned to perform law enforcement duties together. (3-31-22)

078. **Canine Team Evaluator**. An officer trained and certified by POST to evaluate the competence of canine teams. (3-31-22)

089. **College Credit**. A unit of work toward an academic or vocational degree awarded by an accredited college or university ~~accredited by one of the accrediting agencies listed in Subsection 11.11.01.053.01.d. or other POST accepted U.S. regional accrediting agency~~. ~~(3-31-22)~~( )

109. **Conviction**. ~~Any conviction in any federal, tribal, state, county, or municipal court; a voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; the payment of a fine or civil penalty; a plea of guilty or nolo contendere; or a finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred, or withheld, or whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed or reduced, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, or expungement of the record is based upon lenity or rehabilitation rather than upon a defect in the legality or factual basis of the plea, finding of guilt, or conviction. "Conviction" does not include a misdemeanor conviction upon a bond forfeiture for a violation that is or would at the time have in Idaho been an infraction violation, if the only reason it is classified as a misdemeanor is due to the bond forfeiture~~ As defined in Section 19-5109(11), Idaho Code. ~~(3-31-22)~~( )

101. **Correction Officer**. An employee of the Idaho Department of Correction or a private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in a correction facility. (3-31-22)

112. **Council**. The Idaho Peace Officer Standards and Training Council. (3-31-22)

123. **Crime of Deceit**. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery and Counterfeiting), Sections 18-4616 (Defacing Marks on

Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (3-31-22)

134. Division Administrator. The administrator of the Idaho Peace Officers Standards and Training Division of the Idaho State Police. (3-31-22)

145. Field Training. Formal, on the job training for special and defined purposes. (3-31-22)

156. Full Time. An employee who is, for a calendar month, employed on average at least thirty (30) hours of service per week, or one hundred thirty (130) hours of service per month. (3-31-22)

167. Hearing Board. A board of three members designated by the Chair of the Council to hear contested cases and enter recommended orders for the Council's decision. (3-31-22)

178. Hearing Officer. A person designated by the Council to preside over decertification proceedings and to render findings of fact, conclusions of law and a recommended order at the conclusion of those proceedings. (3-31-22)

189. In-Service Training. Training designed to refresh or enhance a certified officer's ability to perform their duties. (3-31-22)

1920. Juvenile Detention Center. A facility that is part of or administered by an Idaho county and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (3-31-22)

201. Juvenile Detention Officer. An employee working in a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders. (3-31-22)

212. Juvenile Probation Department. A public or private agency administered by or contracted with the court, and providing juvenile probation services to a county at the concurrence and expense of the county commissioners. (3-31-22)

223. Juvenile Probation Officer. An employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (3-31-22)

234. Law Enforcement Certification Program. A program operated by a college or university, law enforcement agency, or private entity and satisfying POST basic training academy requirements. (3-31-22)

245. Law Enforcement Certification Program Facility. A facility at which law enforcement certification programs conduct training. (3-31-22)

256. Law Enforcement Profession. As used in these rules ~~in reference to agreements authorized pursuant to Section 19-5112, Idaho Code~~, the "law enforcement profession" includes the following positions: Peace Officer, County Detention Officer, Emergency Communications Officer, Juvenile Detention Officer, Juvenile

Probation Officer, Correction Officer, Juvenile Corrections Direct Care Staff, Adult Felony Probation and Parole Officer, ~~Idaho Department of Juvenile Corrections Direct Care Staff,~~ and Adult Misdemeanor Probation Officer.
~~(3-31-22)~~( )

~~**26. Marine Deputy**. A person employed by a county sheriff whose primary function is to perform marine-related enforcement duties within established policies and procedures.~~ ~~(3-31-22)~~

27. Misdemeanor Probation Department. A public or private agency administered by or contracted with the county, and providing misdemeanor probation services to a county at the concurrence and expense of the county commissioners. (3-31-22)

28. Part-Time Employee. An employee, regardless of discipline, who works less than thirty (30) hours per week or one hundred thirty (130) hours per month. (3-31-22)

29. POST. The Idaho Peace Officer Standards and Training Program. (3-31-22)

30. POST Certified Instructor. A person certified by POST as qualified to instruct or assess students in a course of instruction which meets POST standards for certification or training. (3-31-22)

31. Program Coordinator. A person designated by a college, university, or agency to be responsible for a law enforcement certification program. (3-31-22)

32. Public Safety Answering Point (PSAP). A city, county, or state emergency call center that receives direct or transferred 9-1-1 calls for police, firefighting, and ambulances. (3-31-22)

33. Regional Training Specialist. A POST employee who is assigned to a specific region of the state, and who assesses training materials and instruction for law enforcement personnel to assure compliance with POST standards. (3-31-22)

34. Reserve Peace Officer. A person appointed by an agency to perform the duties of a peace officer on a limited basis. (3-31-22)

35. School. A school, college, university, academy, or local training program which offers law enforcement training and which is certified by the Council. (3-31-22)

36. State. Unless otherwise indicated, the state of Idaho. (3-31-22)

37. Student. A person participating in any Council-approved basic training program or law enforcement certification training program. (3-31-22)

38. Temporary/Seasonal. Employment of less than one hundred eighty (180) consecutive days. (3-31-22)

39. Trainee. A POST certified officer participating in in-service training. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

051. MANDATORY AND VOLUNTARY CERTIFICATION.

01. Mandatory Certification. Except as otherwise provided in these rules, no person shall act as a peace officer, ~~marine deputy,~~ county detention officer, emergency communications officer, juvenile detention officer, juvenile probation officer, correctional officer, adult probation and parole officer, juvenile direct care staff or misdemeanor probation officer in Idaho unless they are certified to do so by POST in accordance with these rules.
~~(3-31-22)~~( )

02. Voluntary Certification for Correctional Officers and Adult Probation and Parole Officers Employed Prior to July 1, 2005. Correctional officers and adult probation and parole officers who were employed prior to July 1, 2005 are not required to be POST certified in those disciplines, but may become certified by meeting all requirements for certification set forth in these rules. (3-31-22)

03. Voluntary Certification for Emergency Communications Officers Employed Prior to July 1, 2012. Emergency Communications Officers who were employed prior to July 1, 2012 are not required to be POST certified, but may become certified by meeting all requirements for certification set forth in these rules. (3-31-22)

04. Voluntary Certification for Certain Officials. The director of the Idaho State Police or any elected official, although specifically excluded by law from meeting the requirements set by the Council, may be certified if they so desire, provided they meet the minimum requirements for certification as prescribed in these rules. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

053. EDUCATION.

01. Acceptable Education. An applicant must have: (3-31-22)

a. Graduated from a school accredited as a high school at the time of graduation by the state in which it is located or by a recognized regional accreditation body; or (3-31-22)

b. Passed a GED or a Department of Labor administered assessment in subject areas required by POST; or (3-31-22)

c. Have completed a high school equivalency program and obtained a state- issued certificate; or (3-31-22)

d. Completed a minimum of fifteen (15) ~~credits at a~~ college credits ~~accredited by one of the following: Middle States Association of Schools and Colleges; New England Commission of Higher Education Accrediting Commission for Community and Junior Colleges; North Central Association of Colleges and Schools (the Higher Learning Commission); Northwest Association of Colleges and Universities; Southern Association of Colleges and Schools; and Western Association of Schools and Colleges~~; or ~~(3-31-22)~~( )

e. Completed a course of study, either in a formal school setting or through homeschooling if the program is recognized by a state or by a local school district within a state as having met that state's high school graduation requirements; or (3-31-22)

f. If educated outside the United States, an applicant must have passed GED testing or provide an evaluation from a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE), showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. (3-31-22)

02. Documentation of Education. An applicant must provide a certified copy or original of one of the following: (3-31-22)

a. High school diploma indicating date of graduation; (3-31-22)

b. Official high school transcript indicating date of graduation; (3-31-22)

c. Official transcript of GED results indicating a passing score; (3-31-22)

d. Correspondence from the Idaho Department of Labor, providing a passing score (minimum 75% in each assessment) result of testing on all POST designated assessments; (3-31-22)

e. Correspondence from a state or local school district indicating that the applicant has met that state's high school graduation requirements; (3-31-22)

f. State-issued high school equivalency certificate; (3-31-22)

g. Official transcript from a POST accepted U.S. regionally-accredited college indicating completion of a minimum of fifteen (15) credits; (3-31-22)

h. Official evaluation of foreign education by a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE) showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

056. DOCUMENTATION OF CRIMINAL, TRAFFIC, AND MILITARY DISCHARGE RECORDS.
With a POST application, an applicant shall submit the following to verify criminal, traffic or military records. (3-31-22)

01. Criminal or Traffic Matters. Charging documents, including citations, complaints, information or indictments; judgements of convictions, orders of restitution; orders involving probation, parole, or revocation of probation or parole; orders of dismissal or release; records of payments to the court. (3-31-22)

02. Military Discharge. Copies of a DD Form 214 for active military service, NGB Form 22 for National Guard Service, or ~~Official Military Discharge Documentation~~ DD Form 256 for Reserve ~~military s~~Service. ~~(3-31-22)~~( )

057. REQUIREMENTS FOR BASIC CERTIFICATION.
In addition to complying with the foregoing standards, each applicant for certification must ~~also~~ comply with the following requirements. ~~(3-31-22)~~( )

01. Agency Employment. Each applicant must be an employee of an agency, as defined in these rules, in a position requiring POST certification, or be a member of POST professional staff. (3-31-22)

02. Background Investigation. The employing agency must conduct a comprehensive background investigation of each applicant to ensure that he meets requirements for POST certification and employment in the law enforcement profession. (3-31-22)

a. The applicant must complete a comprehensive application and personal history statement prior to a background investigation in aid of determining he is eligible for certification. (3-31-22)

b. The applicant must be fingerprinted on a standard FBI Applicant fingerprint card and a search of local, state, and national fingerprint databases must be made to disclose any criminal record. The employing agency ~~must~~ shall retain originals of all records check results. ~~(3-31-22)~~( )

c. The employing agency must investigate the applicant's traffic records in each state in which he resided. (3-31-22)

d. The background investigation must include information from personal references, schools, the applicant's last three (3) previous employers, and law enforcement agency or PSAP records in jurisdictions where the applicant has lived or worked. (3-31-22)

e. The employing agency must interview each applicant to ascertain his suitability for the law enforcement profession. Interview topics must include use of intoxicants, controlled substances, physical, mental, and emotional history, family problems, moral outlook and habits, and the applicant's financial history. (3-31-22)

f. An experienced investigator must conduct a thorough investigation into the applicant's reputation, integrity, honesty, dependability, qualifications, experience, associations, emotional stability, and respect for the law. (3-31-22)

03. Physical Readiness Assessment. The employing agency shall require an assessment of an applicant's physical readiness to ensure he can perform physically demanding tasks and tests while attending a basic training academy or equivalent program. An applicant who fails a required physical test during an academy may be dismissed, but may attend a future academy and must pass a physical readiness test prior to certification. (3-31-22)

04. Mental Readiness Assessment. Where there is a question as to whether the applicant may be subject to a mental or emotional disorder that calls his suitability for the law enforcement profession into question, the employing agency shall have a psychiatrist or clinical psychologist conduct a thorough evaluation to ensure he is capable of performing law enforcement duties. (3-31-22)

05. Application. Each applicant must fill out a POST Application and submit it to the employing agency, which shall submit it to POST with all required documentation. (3-31-22)

a. Upon review of an application, POST may inspect an agency's background investigation file to ensure it is accurate and complete. If a review indicates that information submitted to POST may be inaccurate, incomplete or falsified, the Division Administrator must inspect the agency's background investigation file. (3-31-22)

b. If the application contains inaccuracies or omissions, the Division Administrator may require the agency to supplement the application, and may approve the application. (3-31-22)

c. If the application contains evident falsifications, the Division Administrator shall reject the application. (3-31-22)

06. Aptitude Test. An applicant shall complete an aptitude test to ensure he is capable of performing law enforcement duties. (3-31-22)

07. Code of Ethics/Standards of Conduct. Each applicant shall attest that he will abide by the following Law Enforcement Code of Ethics, and that he understands violations thereof constitute grounds for decertification:

> As a member of the law enforcement profession, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice.
>
> I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret, unless revelation is necessary in the performance of my duty.
>
> I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.
>
> I recognize the badge or position of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of law enforcement/public service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement or emergency communications officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of

justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God or have a sincere and unfaltering commitment to my chosen profession…law enforcement.

(3-31-22)

08. Time for Completing Basic Training Academy or Alternative Training, Field Training and Probationary Period. (3-31-22)

a. Except as otherwise provided in these rules, every person attending a basic training academy must complete that academy, a minimum of 40 hours of field training and six consecutive months of probation in that discipline with that hiring agency within twelve months of beginning employment in order to be certified. (3-31-22)

b. Emergency communications officers attending a basic training academy must complete that academy, and six consecutive months of probation in that discipline with that hiring agency within eighteen (18) months of beginning employment in order to be certified. (3-31-22)

c. Any person who does not become certified in the relevant discipline within three (3) years of graduating from a basic training academy or POST certified equivalent program must repeat that entire academy or program in order to become certified. (3-31-22)

d. Every person seeking certification through the POST challenge process must complete that process within one year of beginning employment with an agency. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

080. CERTIFICATIONS FOR PART-TIME OFFICERS.
In addition to basic POST certification, as set forth in these rules, the Council may issue certifications to the following employees who work under the supervision of full-time, POST certified Officers. (3-31-22)

01. Requirements. Part-time officers in all disciplines except reserve peace officers~~, marine deputies~~ and part-time juvenile detention officers ~~will~~ must meet the same requirements as full time officers and will be issued a basic certificate. ~~(3-31-22)~~( )

a. Part-time juvenile detention officers who attend the basic juvenile detention academy will receive a basic certificate. Part-time juvenile detention officers who attend the part-time juvenile detention training will be issued a part-time juvenile detention certificate. (3-31-22)

b. Part-time misdemeanor probation officers must work sixty (60) hours per year to maintain certification. (3-31-22)

c. Reserve peace officers will be issued a reserve peace officer certification. (3-31-22)

~~**d.** Marine deputies will be issued a marine deputy certification. (3-31-22)~~

02. Lapse of Certification. All part-time POST certifications shall lapse in the same manner as basic certifications, and as set forth in these rules. (3-31-22)

03. Decertification. All-part time officers are subject to decertification in the manner set forth in these rules. (3-31-22)

04. Limit and Authority. The certification and authority of part-time officers is not limited except where indicated in these rules. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

082. ~~MARINE DEPUTY CERTIFICATION.~~(RESERVED)

~~**01. Appointment by Sheriff**. Marine deputies may be appointed by the Sheriff of a county for the purpose of enforcing: (3-31-22)~~

~~**a.** The provisions of Title 67, Chapter 70, Idaho Code; (3-31-22)~~

~~**b.** The provisions of IDAPA 26, Title 01, Chapter 30, Administrative Rules of the Idaho Department of Parks and Recreation; (3-31-22)~~

~~**c.** City and county ordinances pertaining to watercraft and waterways; and (3-31-22)~~

~~**d.** Enforcement of Idaho Code as assigned by the Sheriff. (3-31-22)~~

~~**02. Minimum Basic Training**. A person desiring marine deputy certification shall complete the Council approved core curriculum, comprising basic law enforcement and marine specific courses. (3-31-22)~~

~~**03. Peace Officer Eligibility**. A person who, within the three (3) years immediately preceding application, has served as a full-time POST certified peace officer shall be eligible for POST marine deputy certification without completing the core curriculum, provided he completes required marine specific courses and passes the marine deputy certification examination. (3-31-22)~~

~~**04. Certified or Commissioned in Another Jurisdiction; Graduate of Basic Police Academy**. A person who has, within the three (3) years immediately preceding application, served as a full-time certified peace officer in another state, or served as a full-time commissioned peace officer for the federal government, or completed a basic police academy equivalent to the POST basic patrol academy may be eligible for POST marine deputy certification, provided he passes the POST marine deputy certification examination and meets all additional POST requirements for marine deputy certification. (3-31-22)~~

~~**05. Absence of Three Years**. A person who has not served as a marine deputy or as a peace officer for over three (3) years must complete the POST core curriculum to be eligible for marine deputy certification. (3-31-22)~~

(BREAK IN CONTINUITY OF SECTIONS)

092. CANINE EVALUATOR CERTIFICATION.

01. Certification. POST shall certify applicants who meet the requirements set forth in this section and are deemed qualified by their training and experience to evaluate police canine teams. Certificates shall be issued in the areas of Patrol and Detection. (3-31-22)

02. Eligibility. ~~To be eligible for a Canine Evaluator Certificate, each~~ An applicant ~~shall~~ must hold~~:~~ (3-31-22)

~~**a.** Possess~~ a current ~~or previous~~ POST ~~professional~~ certification, ~~and not~~ have never been ~~previously~~ decertified as a public safety official in any jurisdiction, and comply with any additional provisions required by POST. ~~(3-31-22)~~( )

03. Retaining Certification. A certified canine evaluator shall evaluate a minimum of four (4) dogs every two (2) years in the discipline in which they are certified to evaluate. Any evaluator not satisfying this requirement shall complete all requirements for initial canine evaluator certification to be recertified. (3-31-22)

04. Revocation. The Council may revoke Canine Evaluator certification if an evaluator is deemed unqualified to continue evaluating police canine teams. Review of canine evaluator certification may be initiated upon the request of an agency head, other reliable source or the Council. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

110. DECERTIFICATION.

01. Mandatory Decertification. The Council shall decertify any person for: (3-31-22)

a. A conviction of any felony or offense which would be a felony if committed in Idaho; (3-31-22)

b. A conviction for a misdemeanor offense involving domestic violence; (3-31-22)

c. Willfully falsifying or omitting any material information to obtain certification; (3-31-22)

d. Violating any provision of the Idaho Uniform Controlled Substances Act, Section 37-2701 et seq., Idaho Code, whether charged or not, or of a comparable statute of another state or country, if the violation occurred while employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the illegal use occurred. (3-31-22)

02. Discretionary Decertification. The Council may decertify any person for: (3-31-22)

a. A conviction of any misdemeanor; (3-31-22)

b. A violation of the Council's Code of Ethics; (3-31-22)

c. Criminal conduct whether charged or not; (3-31-22)

d. Consuming alcoholic beverages on duty, except as necessary for the lawful performance of duties; (3-31-22)

e. Harassment or intimidation; (3-31-22)

f. Lying or falsifying official written or verbal communications; (3-31-22)

g. Inappropriate sexual conduct while on duty; (3-31-22)

h. An inappropriate relationship, sexual or otherwise, with a person who the officer knows or should have known is a victim, witness, defendant, inmate, probationer, parolee, or informant in an ongoing investigation or adjudication; ~~(3-31-22)~~( )

i. Unauthorized use or unlawful conversion of the employing agency's property, equipment, or funds; (3-31-22)

j. Intentional and unauthorized disclosure of confidential information or information that may compromise an official investigation; (3-31-22)

k. Failure to report being charged with a felony or misdemeanor within five (5) business days; (3-31-22)

l. Failure to respond or to respond truthfully to questions related to an investigation or legal proceeding. (3-31-22)

03. Required Notifications by Officers and Agencies. (3-31-22)

a. An officer charged with a felony or a misdemeanor shall notify his agency head within five (5) business days. (3-31-22)

b. The agency head of an officer charged with a felony or misdemeanor shall notify the Division Administrator within fourteen (14) days of learning of the charge. (3-31-22)

c. A person who is not currently employed by a law enforcement agency but is certified by POST shall notify POST of a misdemeanor or felony charge within fourteen (14) business days. (3-31-22)

04. Effect of Decertification. (3-31-22)

a. A person decertified by the Council is ineligible for POST certification of any kind for ten (10) years following the date of decertification. After the expiration of ten (10) years an agency head may petition the Council to allow a decertified officer to attend a basic academy and become certified. (3-31-22)

b. No decertified person shall exercise any law enforcement authority until recertified. Any officer who is the subject of a decertification investigation is ineligible for any additional POST certification while under investigation. (3-31-22)

c. Voluntary resignation or relinquishment of certification(s) has the same full force and effect as decertification in a contested case. (3-31-22)

111. DECERTIFICATION PROCEEDINGS-GENERAL PROVISIONS.

01. Legal Authority. In accordance with ~~the~~ IDAPA 62.01.01, Idaho Rules of Administrative Procedure ~~of the Attorney General, IDAPA 04.11.01.050~~, the Council partially declines to adopt the procedures established in IDAPA ~~04.11.01~~ 62.01.01, ~~but~~ to the extent that the Council does adopt specific rules found in IDAPA ~~04.11.01~~ 62.01.01 et seq., those rules are specified below. The due process procedures ~~for fair hearings are~~ provided within these rules are to meet the unique requirements of the law enforcement profession and provide for expeditious resolution of contested cases in order to assure public safety and to secure a just, speedy and economical determination of all matters presented to the Council. These procedures meet or exceed minimum Constitutional requirements for due process while allowing the Council to fulfill its obligations to protect the safety of the public and the integrity of the law enforcement profession. ~~(3-31-22)~~( )

02. Overview. Pursuant to Idaho Code Section 19-5113, the Division Administrator shall investigate all trustworthy allegations of misconduct by a person holding POST certification and determine whether decertification proceedings will be commenced. (3-31-22)

03. Stipulation or Relinquishment. At any time during the course of an investigation, the person being investigated may stipulate to decertification or otherwise relinquish their certifications. However, in the event the individual relinquishes their certification but does not stipulate to decertification, the decertification process may continue forward as set forth in these rules. ~~(3-31-22)~~( )

112. DECERTIFICATION PROCEEDINGS-DUE PROCESS PROCEDURES.

If the Division Administrator determines through investigation ~~(which constitutes the complaint for the purpose of a contested case proceeding before the agency)~~ that the allegations of misconduct by a person, which if proven, are cause for decertification, the person shall be provided with notice and an opportunity to respond before a decision regarding decertification is made. ~~(3-31-22)~~( )

01. Notice of Intent to Decertify. The Division Administrator shall provide the person who is the subject of the proceeding with a notice of the intent to decertify, which shall include: (3-31-22)

a. The basis for the contemplated decertification and an explanation of the evidence supporting the intended action. (3-31-22)

b. That the person has a right to be represented by a person of their own choosing. (3-31-22)

c. That the person may file a written response to object to the notice of intent to decertify. Said response shall be made within fourteen (14) days from the date of service of the notice of intent to decertify. The written response shall be made to the Division Administrator, setting forth any reasons why the intended action should not be taken. Concurrent with the written response, a written request may also be made for a conference with the Division Administrator to provide reasons why the intended action should not be taken. (3-31-22)

d. That the person may waive a response by submitting a written waiver to the Division Administrator. (3-31-22)

e. That, if the person waives a response or fails to respond within the designated time, signs an agreement to decertification or relinquishes their certificates; the Division Administrator will enter an order of decertification. (3-31-22)

02. Stipulation ~~or Relinquishment~~. ~~A person may~~ If an individual stipulates to decertification, ~~or otherwise relinquish their certifications, and~~ the Division Administrator shall enter an order of decertification. ~~(3-31-22)~~( )

03. Decision – Request for Hearing. After the person who is the subject of the decertification proceeding has responded or waived a response, or the period to respond has expired, the Division Administrator shall, within twenty-eight (28) days, issue a decision on decertification. (3-31-22)

a. The decision shall include findings of fact and conclusions of law and becomes a final order unless the person files a request for a hearing on the decision with the Council within fourteen (14) days of the date of service of the Division Administrator's decision. (3-31-22)

b. A request for hearing shall include a brief statement of the issues upon which the person contends a hearing is required. (3-31-22)

04. Hearing and Order. Upon receipt of a request for hearing, the Council shall assign the matter to a hearing officer for hearing. IDAPA Rules ~~04.11.01.410 through 04.11.01.417~~ 62.01.01 apply to hearing officers. ~~(3-31-22)~~( )

a. The hearing officer shall have the power to subpoena witnesses, administer oaths, examine evidence and witnesses and request additional information from the parties. (3-31-22)

b. The person who is the subject of the proceeding shall have the right to be represented at the hearing by a person of their own choosing and the right to conduct discovery. (3-31-22)

c. Prior to submitting testimonial evidence, the person shall receive an administrative warning requiring that he provide testimony truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, based on Garrity v. New Jersey, 385 U.S. 493 (1967). (3-31-22)

d. The hearing shall be recorded at the Council's expense. The recording will be the official record of the hearing. Any party to the action may, at their expense, request that a transcript of the hearing be prepared or that additional recordings be made. Such a request shall be approved if the additional recording does not distract from or disrupt the hearing. (3-31-22)

e. Pursuant to Idaho Code Section 19-5113, the Division Administrator shall have the authority to compel the attendance and testimony of witnesses and production and examination of books, papers, and records. (3-31-22)

f. At the conclusion of proceedings, the hearing officer shall issue a decision in writing consisting of findings of fact, conclusions of law and an order that the person be decertified or that POST failed to show grounds for decertification and that the person be reinstated as an officer. The decision and the record of the proceedings, shall be filed with the Council. (3-31-22)

g. The decision shall become a final order unless a petition for review by the full Council is filed with the Council within twenty-eight (28) days of the date of the decision. A petition for review shall include a brief statement of the basis upon which review is requested. (3-31-22)

h. Where the decision directs the reinstatement of the person's certification, the Division Administrator shall reinstate certification upon the expiration of the time for filing a petition for review. (3-31-22)

05. Petition for Agency Review. (3-31-22)

a. Upon receipt of a petition for agency review, the Council shall issue a briefing schedule allowing the petitioner an opening brief, the respondent a response brief and the petitioner a reply brief. The Council shall review the record, briefs submitted and may allow oral argument. The petitioner may be represented by a person of their own choosing. (3-31-22)

b. The Council may affirm, reverse, or modify the decision of the hearing officer, or may hold additional hearings or remand the matter. The Council's decision shall be a final order and may be appealed to district court by filing a petition for judicial review within twenty-eight (28) days of the date of service of the Council's decision. (3-31-22)

06. Service. Service of all notices to be given, orders or other documents under Section 092 shall be by personal service, facsimile, other electronic means, or by U.S. mail, regular or certified, with postage prepaid, addressed to a party's last known address. (3-31-22)

07. Public Notice. The names, agency and violation(s) of those persons whose certifications have been revoked are publicly available. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

123. REQUIREMENTS FOR HIGH LIABILITY INSTRUCTOR ENDORSEMENT.
POST certified instructors must obtain additional endorsements to instruct any topics deemed as "high liability" by the Council. (3-31-22)

01. Completion of a High Liability Instructor School. An applicant for High Liability Instructor Endorsement must complete all requirements of the POST instructor course specific to the high liability topic area in which the applicant intends to instruct. (3-31-22)

02. Application. After meeting the requirements for POST instructor certification, the applicant must submit a completed POST High Liability Instructor Endorsement Application Packet and must comply with any additional provisions required by POST. (3-31-22)

03. Multiple Endorsements. A current POST endorsed high liability instructor applying for instructor endorsement in an additional high liability topic area must meet the requirements of this section for the additional topic area prior to endorsement in that topic. (3-31-22)

04. Instruction Pending Endorsement. Prior to evaluation by a Regional Training Specialist, high liability instructor endorsement applicants cannot act as an instructor for any course offered for POST training credit in the intended topic area: Following completion of the POST instructor course specific to the intended high liability intended topic area, and upon notice from the Regional Training Specialist, the applicant may begin co-instruction of in the intended topic area, in preparation for evaluation. (3-31-22)

05. Continuing Training Requirements. High liability instructors must complete ~~a minimum of eight (8) hours of~~ continuing instructor training every two (2) years as defined by POST procedures, including use of force law, liability, and further instructor training specific to the endorsed topic area(s). ~~(3-31-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

126. MAINTAINING POST INSTRUCTOR CERTIFICATIONS AND ENDORSEMENTS.

01. Renewal of High Liability Endorsement. High liability instructor endorsements are valid for two (2) years, ~~except Firearms endorsements which are valid for one (1) year,~~ provided the instructor remains in good standing and complies with all POST requirements for in-service training. To renew the endorsement, the instructor must comply with any additional provisions required by POST. ~~(3-31-22)~~( )

02. Renewal of Master Instructor Certification. Master instructor certification is valid for three (3) years. To renew the certification, the instructor must comply with any additional provisions required by POST. (3-31-22)

03. Renewal of Canine Instructor Certification. Canine instructor certification is valid for two (2) years. To renew the certification, the instructor must comply with any additional provisions required by POST. (3-31-22)

04. Lapse of POST Instructor Certification. Except as otherwise set forth in these rules, POST instructor certification is valid indefinitely, provided it is not suspended or revoked, the instructor remains in good standing, and complies with all POST in-service training requirements. (3-31-22)

a. Instructors who fail to instruct for a period of two (2) years will be deemed inactive and may not instruct as a POST instructor until they have reapplied. (3-31-22)

b. Inactive instructors may be required to complete a POST approved instructor orientation course. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

133. POST CREDIT FOR IN-SERVICE TRAINING.

01. Credit for POST In-Service Training Provided by a Post Certified Instructor in Idaho. POST will grant training credit for in-service training according to the following criteria: (3-31-22)

a. The training was provided by Idaho POST Certified Instructor(s). One (1) or more training instructors for any class must be POST certified. Instructors who are not POST certified will not be given credit for POST instructor hours. (3-31-22)

b. The training was at least thirty (30) minutes in length. (3-31-22)

02. Credit for POST In-Service Training Provided by an Organization or Vendor who is not POST Certified. All third-party in-service training must be pre-approved. The Council may maintain a list of organizations and vendors that will be exempt from this pre-approval process based on their reputation providing quality training, that are well established training organizations within the law enforcement training community, or that are offered through a regionally accredited college or university. Organizations and vendors who do not meet the criteria established through the Council, or its designee must meet the following criteria. (3-31-22)

a. At least thirty (30) days prior to an in-service training session, the host agency will submit the following documents to a Regional Training ~~Specialist~~ Coordinator for approval: ~~(3-31-22)~~( )

i. A course outline; (3-31-22)

ii. A description of the subject material and the time period to be devoted to each subject area; (3-31-22)

iii. A description of the enforcement personnel to be instructed; (3-31-22)

iv. A résumé on each instructor, unless the instructor is POST certified or approved; and (3-31-22)

v. A lesson plan and all presentation and handout materials used in the course. (3-31-22)

b. The course must be at least four (4) hours in length. (3-31-22)

c. Any course which has been approved through this process, may be placed on the Council's designated pre-approved list after meeting the following criteria: (3-31-22)

i. The course has been taught at least once in a calendar year, for at least three (3) consecutive years; or (3-31-22)

ii. Is approved by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) and placed on the IADLEST national course certification index. (3-31-22)

03. Course Attendance Roster. A lead instructor or facilitator must submit an ~~original or~~ electronic POST course attendance roster no later than thirty (30) days following the completion of the training for POST training credit approval. ~~(3-31-22)~~( )

04. Training Outside of Idaho. In-service training which is delivered outside of Idaho will be considered POST approved if the trainee provides any of the following: (3-31-22)

a. The training was approved by the state's equivalent of POST, where the training occurred; or (3-31-22)

b. The training course was approved by the International Association of Directors of Law Enforcement Standards and Training (IADLEST); or (3-31-22)

c. The training course meets the criteria set forth above; and (3-31-22)

d. Is submitted within thirty (30) days of the completion of the course; and (3-31-22)

e. The trainee provides POST with the location, hours of the training, and a course syllabus or table of contents. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

143. MAINTENANCE OF RECORDS.
A law enforcement certification program must maintain: (3-31-22)

01. Course File. A file for each POST approved law enforcement training course it conducts, including curriculum, class schedules, attendance and discipline records, counseling records, tests with answer sheets, ~~a course summary,~~ and course evaluations. ~~(3-31-22)~~( )

02. Student Training File. A training file for each student including sufficient records to determine whether the student has completed all performance objectives. (3-31-22)

03. Instructor File. A file for each instructor for the program including proof that the instructor is POST certified for each subject the instructor teaches, a copy of the instructor's student evaluations for the past year, and any other pertinent information related to the instructor's performance. (3-31-22)

IDAPA 11 – IDAHO STATE POLICE
PEACE OFFICER STANDARDS AND TRAINING COUNCIL

11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-2602

NOTICE OF RULEMAKING – RESCISSION OF TEMPORARY RULE AND VACATION OF PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket and is rescinding the temporary rule previously adopted under this docket. The action is authorized pursuant to Section 19-5107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the rescission and vacation of this rulemaking:

The temporary and proposed rule, adopted under this docket 11-1101-2602 by the Peace Officer Standards and Training Council, was published in July 1, 2026, Administrative Bulletin, Vol. 26-7, pages 52-63. This Notice of Rulemaking hereby rescinds the temporary rules, effective July 1, 2026, and vacates the proposed rulemaking.

The temporary and proposed rulemaking was done in order to reduces the regulatory burden that would otherwise impact individuals or businesses, specifically, officers of the Idaho Department of Juvenile Justice. By combining two separate disciplines into one, officers can be trained and certified in the new, single discipline (Juvenile Justice Officer), reducing the need to manage certification and training of two disciplines and no longer requiring officers to attend an additional basic training academy to attain certification when transitioning from one discipline to the other, i.e. Juvenile Detention Officer to Juvenile Corrections Officer.

Therefore, this Notice of Rulemaking rescinds the temporary rule, effective July 1, 2026, and vacates the proposed rulemaking to IDJC Juvenile Justice Officers.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of proposed rulemaking and rescission of temporary rule, contact Chief of Staff, Russ Wheatley, email: Russ.wheatley@isp.idaho.gov, phone: (208) 884-7004.

DATED this 28th day of August, 2026.

Lt. Colonel Russ Wheatley
Chief of Staff
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642
(208) 884-7004

IDAPA 11 – IDAHO STATE POLICE
PEACE OFFICER STANDARDS AND TRAINING COUNCIL

11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-2603

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

GOVERNOR'S STATEMENT: An earlier effective date prior to legislative review is required in accordance with the provisions of Idaho Code Section 67-5226(2) (c) because it reduces a regulatory burden that would otherwise impact individuals or businesses.

EFFECTIVE DATE: The effective date of the temporary rule is October 7, 2026.

AUTHORITY: In compliance with Idaho Code Sections 67-5221(1) and 67-5226 notice is hereby given that this agency has adopted a temporary rule and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Idaho Code Section 19-5107 Idaho Code.

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

Tuesday, October 13, 2026 **9:00 a.m. (MT)**
In Person: **Idaho Peace Officer Standards and Training Facility** **Building 3, Plott Board Room** **700 South Stratford Drive** **Meridian, ID 83642** **Virtual:** **https://teams.microsoft.com/meet/213330193084683?p=lRThzYXT26qLFsP57G** **Meeting ID: 213 330 193 084 683** **Passcode: aZ9b7kA9**

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

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

The proposed modifications to certification requirements are intended to reduce unnecessary regulatory and educational burdens while strengthening the training and professional development expectations for Idaho's law enforcement personnel.

For higher-level detention officer certifications, the proposed changes would reduce the existing college credit requirements. This modification recognizes that relevant experience, specialized training, and demonstrated job performance can provide meaningful professional development without requiring an extensive college-credit component. Reducing the college requirement would make advancement to higher levels of certification more accessible while maintaining appropriate professional standards.

For Misdemeanor Probation Officer (MPO) certification, the proposed changes would establish specific ongoing training requirements to retain the certification. This ensures that officers who achieve the MPO certification continue to maintain current knowledge, skills, and competencies throughout their careers.

Instructor credit requirements for maintaining basic certification would be incorporated to recognize the value of continued involvement in law enforcement training and instruction. Requiring applicable instructor credits encourages certified personnel to remain engaged in professional development, share knowledge and experience with others, and contribute to the ongoing development of the law enforcement profession.

This rule change reduces the regulatory burden that would otherwise impact individuals or businesses, specifically officers of the Idaho Department of Juvenile Justice. By combining two separate disciplines into one, officers can be trained and certified in the new, single discipline (Juvenile Justice Officer), reducing the need to manage certification and training of two disciplines and no longer requiring officers to attend an additional basic training academy to attain certification when transitioning from one discipline to the other, i.e. Juvenile Detention Officer to Juvenile Corrections Officer.

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: NA.

NEGOTIATED RULEMAKING: Pursuant to Idaho Code Section 67-5220(2) negotiated rulemaking was not conducted because the POST Council determined that immediate implementation of the rule is necessary to reduce regulatory burden and streamline Idaho POST requirements in response to current training and certification needs. The changes provide greater flexibility, reduce administrative burdens, and clarify compliance requirements while maintaining appropriate professional standards and ensuring officers receive the training necessary to perform their duties effectively.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kelsey Woodward, email: kelsey.woodward@post.idaho.gov, phone: (208) 884-7253.

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 28, 2026.

DATED this 28th day of August, 2026.

Lt. Colonel Russ Wheatley, Chief of Staff
Idaho State Police
700 S. Stratford Drive Meridian, ID 83642
(208) 884-7004
Russ.wheatley@isp.idaho.gov

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 11-1101-2603
(Only Those Sections With Amendments Are Shown.)

11.11.01 – RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

010. DEFINITIONS.
In addition to the definitions under 19-5101, Idaho Code, the following terms apply: (3-31-22)

01. Act. Title 19, Chapter 51, of the Idaho Code. (3-31-22)

02. **Agency**. A law enforcement agency which is a part of or administered by the state of Idaho or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; an adult misdemeanor probation department, a Public-Safety Answering Point (PSAP); the Idaho Department of Juvenile Corrections; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the a private correctional facility. (3-31-22)

03. **Agency Head**. A chief of police of a city, sheriff of a county or chief administrator of a law enforcement agency, as defined herein. (3-31-22)

04. **Applicant**. A person applying to participate in a POST training program or applying for POST certification. (3-31-22)

05. **Basic Training Academy**. A basic course of Council approved instruction in a discipline certified by POST. (3-31-22)

06. **Canine Team**. A specific person and a specific dog controlled by that person as its handler, formally assigned to perform law enforcement duties together. (3-31-22)

07. **Canine Team Evaluator**. An officer trained and certified by POST to evaluate the competence of canine teams. (3-31-22)

08. **College Credit**. A unit of work toward an academic or vocational degree awarded by a college or university accredited by one of the accrediting agencies listed in Subsection 11.11.01.053.01.d. or other POST accepted U.S. regional accrediting agency. (3-31-22)

09. **Conviction**. Any conviction in any federal, tribal, state, county, or municipal court; a voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; the payment of a fine or civil penalty; a plea of guilty or nolo contendere; or a finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred, or withheld, or whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed or reduced, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, or expungement of the record is based upon lenity or rehabilitation rather than upon a defect in the legality or factual basis of the plea, finding of guilt, or conviction. "Conviction" does not include a misdemeanor conviction upon a bond forfeiture for a violation that is or would at the time have in Idaho been an infraction violation, if the only reason it is classified as a misdemeanor is due to the bond forfeiture. (3-31-22)

10. **Correction Officer**. An employee of the Idaho Department of Correction or a private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in a correction facility. (3-31-22)

11. **Council**. The Idaho Peace Officer Standards and Training Council. (3-31-22)

12. **Crime of Deceit**. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or

Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery and Counterfeiting), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (3-31-22)

13. Division Administrator. The administrator of the Idaho Peace Officers Standards and Training Division of the Idaho State Police. (3-31-22)

14. Field Training. Formal, on the job training for special and defined purposes. (3-31-22)

15. Full Time. An employee who is, for a calendar month, employed on average at least thirty (30) hours of service per week, or one hundred thirty (130) hours of service per month. (3-31-22)

16. Hearing Board. A board of three members designated by the Chair of the Council to hear contested cases and enter recommended orders for the Council's decision. (3-31-22)

17. Hearing Officer. A person designated by the Council to preside over decertification proceedings and to render findings of fact, conclusions of law and a recommended order at the conclusion of those proceedings. (3-31-22)

18. In-Service Training. Training designed to refresh or enhance a certified officer's ability to perform their duties. (3-31-22)

19. Juvenile Detention Center. A facility that is part of or administered by an Idaho county and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (3-31-22)

20. Juvenile Detention Officer. An employee working in a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders. (3-31-22)

21. Juvenile Justice Officer. An employee working in a juvenile detention center or in a correctional facility operated by the Idaho Department of Juvenile Corrections, who is responsible for the safety, care, protection, and monitoring of juvenile offenders. (10-7-26)T

2~~1~~2. Juvenile Probation Department. A public or private agency administered by or contracted with the court, and providing juvenile probation services to a county at the concurrence and expense of the county commissioners. (3-31-22)

2~~2~~3. **Juvenile Probation Officer**. An employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (3-31-22)

2~~3~~4. **Law Enforcement Certification Program**. A program operated by a college or university, law enforcement agency, or private entity and satisfying POST basic training academy requirements. (3-31-22)

2~~4~~5. **Law Enforcement Certification Program Facility**. A facility at which law enforcement certification programs conduct training. (3-31-22)

2~~5~~6. **Law Enforcement Profession**. As used in these rules in reference to agreements authorized pursuant to Section 19-5112, Idaho Code, the "law enforcement profession" includes the following positions: Peace Officer, County Detention Officer, Emergency Communications Officer, Juvenile Detention Officer, Juvenile Justice Officer, Juvenile Probation Officer, Correction Officer, Juvenile Corrections Direct Care Staff, Adult Felony Probation and Parole Officer, Idaho Department of Juvenile Corrections Direct Care Staff, and Adult Misdemeanor Probation Officer. ~~(3-31-22)~~(10-7-26)T

2~~6~~7. **Marine Deputy**. A person employed by a county sheriff whose primary function is to perform marine-related enforcement duties within established policies and procedures. (3-31-22)

2~~7~~8. **Misdemeanor Probation Department**. A public or private agency administered by or contracted with the county, and providing misdemeanor probation services to a county at the concurrence and expense of the county commissioners. (3-31-22)

2~~8~~9. **Part-Time Employee**. An employee, regardless of discipline, who works less than thirty (30) hours per week or one hundred thirty (130) hours per month. (3-31-22)

~~29~~30. **POST**. The Idaho Peace Officer Standards and Training Program. (3-31-22)

3~~0~~1. **POST Certified Instructor**. A person certified by POST as qualified to instruct or assess students in a course of instruction which meets POST standards for certification or training. (3-31-22)

3~~1~~2. **Program Coordinator**. A person designated by a college, university, or agency to be responsible for a law enforcement certification program. (3-31-22)

3~~2~~3. **Public Safety Answering Point (PSAP)**. A city, county, or state emergency call center that receives direct or transferred 9-1-1 calls for police, firefighting, and ambulances. (3-31-22)

3~~3~~4. **Regional Training Specialist**. A POST employee who is assigned to a specific region of the state, and who assesses training materials and instruction for law enforcement personnel to assure compliance with POST standards. (3-31-22)

3~~4~~5. **Reserve Peace Officer**. A person appointed by an agency to perform the duties of a peace officer on a limited basis. (3-31-22)

3~~5~~6. **School**. A school, college, university, academy, or local training program which offers law enforcement training and which is certified by the Council. (3-31-22)

3~~6~~7. **State**. Unless otherwise indicated, the state of Idaho. (3-31-22)

3~~7~~8. **Student**. A person participating in any Council-approved basic training program or law enforcement certification training program. (3-31-22)

3~~8~~9. **Temporary/Seasonal**. Employment of less than one hundred eighty (180) consecutive days. (3-31-22)

~~39~~40. **Trainee**. A POST certified officer participating in in-service training. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

051. MANDATORY AND VOLUNTARY CERTIFICATION.

01. Mandatory Certification. Except as otherwise provided in these rules, no person shall act as a peace officer, marine deputy, county detention officer, emergency communications officer, juvenile detention officer, juvenile justice officer, juvenile probation officer, correctional officer, adult probation and parole officer, juvenile direct care staff or misdemeanor probation officer in Idaho unless they are certified to do so by POST in accordance with these rules. ~~(3-31-22)~~(10-7-26)T

02. Voluntary Certification for Correctional Officers and Adult Probation and Parole Officers Employed Prior to July 1, 2005. Correctional officers and adult probation and parole officers who were employed prior to July 1, 2005 are not required to be POST certified in those disciplines, but may become certified by meeting all requirements for certification set forth in these rules. (3-31-22)

03. Voluntary Certification for Emergency Communications Officers Employed Prior to July 1, 2012. Emergency Communications Officers who were employed prior to July 1, 2012 are not required to be POST certified, but may become certified by meeting all requirements for certification set forth in these rules. (3-31-22)

04. Voluntary Certification for Certain Officials. The director of the Idaho State Police or any elected official, although specifically excluded by law from meeting the requirements set by the Council, may be certified if they so desire, provided they meet the minimum requirements for certification as prescribed in these rules. (3-31-22)

05. Exception for Juvenile Detention Officers in Juvenile Corrections. A person who holds a valid POST juvenile detention officer certification may be employed as juvenile direct care staff in a juvenile correction discipline without obtaining additional certification, provided they remain in good standing with their original certification. (10-7-26)T

(BREAK IN CONTINUITY OF SECTIONS)

054. AGE.
The minimum age requirements for employment in the following disciplines are: (3-31-22)

01. Twenty-One (21) Years of Age. Patrol officers, felony probation and parole officers, misdemeanor probation officers, juvenile detention officers, juvenile justice officers, juvenile probation officers, and juvenile corrections direct care staff. ~~(3-31-22)~~(10-7-26)T

02. Eighteen (18) Years of Age. Corrections officers, adult detention officers, emergency communications officers. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

070. HIGHER LEVEL CERTIFICATION.
In addition to basic certification, the Council may issue higher-level certifications in recognition of additional training and experience to full-time officers already possessing a basic POST certification. (3-31-22)

01. Types of Higher-Level Certification. In addition to basic certification, the Council may issue the following: (3-31-22)

a. Intermediate certification for peace officers, detention officers, misdemeanor probation officers, juvenile probation officers, juvenile detention officers, juvenile justice officers, juvenile corrections officers, and emergency communications officers; ~~(3-31-22)~~(10-7-26)T

b. Advanced certification for peace officers, detention officers, misdemeanor probation officers, juvenile detention officers, juvenile justice officers, juvenile probation officers, and emergency communications officers; ~~(3-31-22)~~(10-7-26)T

c. Supervisor certification for peace officers, detention officers and emergency communications officers; (3-31-22)

d. Master certification for peace officers, detention officers and emergency communications officers; (3-31-22)

e. Management certification for peace officers, detention officers and emergency communications officers; (3-31-22)

f. Executive certification for peace officers. (3-31-22)

02. Requirements. In addition to the requirements otherwise set forth in these rules, the following are required for higher level certification: (3-31-22)

a. An applicant shall possess POST basic certification in the relevant discipline and be a full-time employee of an agency. (3-31-22)

b. An applicant shall attach to his POST application all relevant transcripts, certificates, diplomas, degrees, course outlines, or other documents not listed on the applicant's POST training record, verifying his education and training. (3-31-22)

c. The agency of an applicant for a Supervisor, Management, or Executive certification must submit a job description or other documentation verifying the applicant's duties. (3-31-22)

071. LAW ENFORCEMENT EXPERIENCE, MILITARY EXPERIENCE, AND COLLEGE CREDITS FOR PURPOSES OF HIGHER CERTIFICATION.
For purposes of determining whether a person is eligible for higher level certifications based upon experience and education, the following apply. (3-31-22)

01. Law Enforcement Experience. Law enforcement experience shall include actual time served with a law enforcement agency as a full-time peace officer or county detention officer. POST Council determines the acceptability of time served in one of those positions in a jurisdiction other than Idaho, or one which does not comply with the minimum standards set forth in these rules. (3-31-22)

02. Juvenile Justice Experience. Juvenile justice experience means actual time served as a full-time juvenile corrections, juvenile detention, juvenile justice, or juvenile probation officer. ~~(3-31-22)~~(10-7-26)T

03. Emergency Communications Officer Experience. Emergency communications officer experience means actual time served as a full-time emergency communications officer with a duly constituted law enforcement or PSAP agency. (3-31-22)

04. Misdemeanor Probation Experience. Misdemeanor probation experience means actual time served as a full-time misdemeanor officer. (3-31-22)

05. Military Law Enforcement Service and Education. An applicant who has served in the military as a full-time military law enforcement officer may be awarded partial credit toward law enforcement experience and training. The applicant shall have served as a full-time military law enforcement officer for the period of time for which credit is requested. Regular guard duty does not qualify. (3-31-22)

a. Credit will be awarded as follows: (3-31-22)

i. One (1) year of accepted military law enforcement service shall equal three (3) months of law enforcement experience. (3-31-22)

ii. Eight (8) hours of accepted military law enforcement training shall equal four (4) hours of law enforcement training. (3-31-22)

b. No applicant shall be awarded more than two (2) years of law enforcement experience or more than one thousand (1,000) hours of law enforcement training. (3-31-22)

c. Educational credit may be awarded for completion of military law enforcement schools. All certificates, course outlines, diplomas, DD-214's, and certificates of completion showing length of school shall be submitted to POST with the application for higher certification. (3-31-22)

06. College Credits. POST may award credits for college education as follows: (3-31-22)

a. One (1) college or university semester hour or unit shall equal one (1) college credit. (3-31-22)

b. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. (3-31-22)

c. College credits may be converted to POST training hours at the rate of twenty (20) POST training hours for one (1) college credit. (3-31-22)

d. When college credit is awarded or purchased for POST approved training, it may be counted for either POST training hours or college credit, whichever is to the advantage of the applicant. (3-31-22)

e. Applicants shall submit an official college transcript as verification of college credit. (3-31-22)

072. INTERMEDIATE AND ADVANCED CERTIFICATION.

01. Intermediate Certification. An applicant shall hold a current POST basic certification, and have acquired either the combination of college credits and/or POST training hours, combined with the prescribed years of law enforcement experience, or an associate or baccalaureate degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: (3-31-22)

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Patrol Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-31-22)

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

(3-31-22)

c. Emergency communications officers. The applicant shall: (3-31-22)

i. Have completed a minimum of one hundred twenty (120) hours of POST certified training, which must include Emergency Communications basic training. (3-31-22)

ii. A minimum of three (3) years of emergency communications officer experience. (3-31-22)

d. Juvenile ~~detention~~ justice officers.

POST Training Hours Including POST Basic Juvenile Justice, Juvenile Corrections, or Juvenile Detention Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Justice, Juvenile Corrections, or Juvenile Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

~~(3-31-22)~~(10-7-26)T

e. Juvenile probation officers.

POST Training Hours Including POST Basic Juvenile Probation Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Probation Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree

Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

(3-31-22)

f. Misdemeanor probation officers.

POST Training Hours Including POST Basic MPO Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST MPO Basic Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Misdemeanor Probation Experience	8 or more	7	6	5	4	4	2

(4-6-23)

02. Advanced Certification. An applicant shall hold a current POST basic certification, possess or be eligible to possess an intermediate certificate, and have acquired either the combination of college credits and POST training hours, combined with the prescribed years of law enforcement experience, or an associate, baccalaureate, master's or doctoral degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: (3-31-22)

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Patrol Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. (3-31-22)

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Detention Academy

One College Credits Equals Twenty (20) POST Training Hours	~~15~~ ~~20~~ ~~30~~ ~~40~~ ~~45~~ ~~60~~ The above may be a combination of College Credits and POST Training Hours						Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience.

~~(3-31-22)~~(10-7-26)T

c. Emergency communications officers. (3-31-22)

i. Have completed a minimum of five hundred (500) hours of POST certified training, which must include POST approved Emergency Communications basic training. (3-31-22)

ii. Have at least ten (10) years of communications specialist experience. (3-31-22)

d. Juvenile detention officers.

POST Training Hours Including POST Juvenile Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Juvenile Detention Academy		
One College Credit Equals Twenty (20) POST Training Credits	The above may be a combination of College Credits and POST Training Hours						Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Juvenile Justice Experience	13 or more	12	11	10	9	8	8	6	4

(10-7-26)T

e. Juvenile probation officers.

POST Training Hours Including POST Juvenile Probation Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Juvenile Probation Academy		
One College Credit Equals Twenty (20) POST Training Credits	The above may be a combination of College Credits and POST Training Hours						Associate Degree	Baccalaureate Degree	Master's Degree or PhD

Years of Juvenile Justice Experience	13 or more	12	11	10	9	8	8	6	4

(10-7-26)T

f. Juvenile justice officers.

POST Training Hours Including POST Basic Juvenile Justice, Juvenile Corrections, or Juvenile Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Juvenile Justice, Juvenile Corrections, or Juvenile Detention Academy		
One College Credit Equals Twenty (20) POST Training Credits	The above may be a combination of College Credits and POST Training Hours						Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Juvenile Justice Experience	13 or more	12	11	10	9	8	8	6	4

(10-7-26)T

~~d~~**g.** Misdemeanor probation officers.

POST Training Hours Including POST Basic MPO Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic MPO Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Misdemeanor Probation Experience	13 or more	12	11	10	9	8	8	6	4

(4-6-23)

03. Probationary Period. An applicant shall have completed a probationary period of at least six (6) consecutive months with the employing agency prior to applying for intermediate or advanced certificates. Agencies may require a longer probationary period prior to application. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

080. CERTIFICATIONS FOR PART-TIME OFFICERS.
In addition to basic POST certification, as set forth in these rules, the Council may issue certifications to the following employees who work under the supervision of full-time, POST certified Officers. (3-31-22)

01. Requirements. Part-time officers in all disciplines except reserve peace officers, marine deputies and part-time juvenile ~~detention~~ justice officers ~~will~~ must meet the same requirements as full-time officers and will be issued a basic certificate. ~~(3-31-22)~~(10-7-26)T

a. Part-time juvenile ~~detention~~ justice officers who attend the basic juvenile ~~detention~~ justice academy will receive a basic certificate. Part-time juvenile ~~detention~~ justice officers who attend ~~the~~ part-time juvenile ~~detention~~ justice training will be issued a part-time juvenile ~~detention~~ justice certificate. ~~(3-31-22)~~(10-7-26)T

b. Part-time misdemeanor probation officers must work sixty (60) hours per year to maintain certification. (3-31-22)

c. Reserve peace officers will be issued a reserve peace officer certification. (3-31-22)

d. Marine deputies will be issued a marine deputy certification. (3-31-22)

02. Lapse of Certification. All part-time POST certifications shall lapse in the same manner as basic certifications, and as set forth in these rules. (3-31-22)

03. Decertification. All-part time officers are subject to decertification in the manner set forth in these rules. (3-31-22)

04. Limit and Authority. The certification and authority of part-time officers is not limited except where indicated in these rules. (3-31-22)

(BREAK IN CONTINUITY OF SECTIONS)

083. PART-TIME JUVENILE ~~DETENTION~~ JUSTICE OFFICER CERTIFICATION.
A part-time juvenile ~~detention~~ justice officer must be certified by the Council within one (1) year of the date he was first employed as a part-time juvenile ~~detention~~ justice officer. ~~(3-31-22)~~(10-7-26)T

01. Eligibility. An applicant shall: (3-31-22)

a. Meet the definition of part-time juvenile ~~detention~~ justice officer as defined in these rules. ~~(3-31-22)~~(10-7-26)T

b. Meet the minimum standards for certification provided in these rules. (3-31-22)

c. Must have been employed by the agency for a minimum six (6) consecutive months, which may include part-time juvenile ~~detention~~ justice officer training time, prior to certification. ~~(3-31-22)~~(10-7-26)T

02. Requirements for Certification. An applicant must: (3-31-22)

a. Complete POST approved part-time juvenile ~~detention~~ justice officer training. ~~(3-31-22)~~(10-7-26)T

b. Complete POST approved part-time juvenile ~~detention~~ justice officer field-training of no less than forty (40) hours. ~~(3-31-22)~~(10-7-26)T

c. Comply with any additional provisions required by POST. (3-31-22)

03. Retaining Certification. A certified part-time juvenile ~~detention~~ justice officer must work sixty (60) hours annually in a juvenile ~~detention~~ justice officer capacity to retain certification. Documentation of hours worked must be kept on file at the appointing agency. A part-time juvenile ~~detention~~ justice officer working less than sixty (60) hours annually must complete all requirements for certification set forth in this section to be recertified. ~~(3-31-22)~~(10-7-26)T

04. Limitations on Certification and Authority. (3-31-22)

a. A part-time juvenile ~~detention~~ justice officer's certification is effective only during those periods

when he is formally assigned by the employing agency to perform the duties of a certified part-time juvenile ~~detention~~ justice officer. ~~(3-31-22)~~(10-7-26)T

b. All certified part-time juvenile ~~detention~~ justice officers shall be directly supervised by a POST certified full-time juvenile detention officer or POST certified full-time juvenile justice officer, and each agency shall have a policy regarding supervision of part-time juvenile ~~detention~~ justice officers. ~~(3-31-22)~~(10-7-26)T

(BREAK IN CONTINUITY OF SECTIONS)

131. IN-SERVICE TRAINING REQUIREMENTS FOR RETAINING BASIC CERTIFICATION.

01. Peace Officers. To retain POST certification, a peace officer must complete a minimum of forty (40) hours of continuing law enforcement training as directed by the POST Council every two (2) calendar years beginning January 1 following the date the officer was certified. This training must include a combined minimum twenty-four (24) hours of continuing law enforcement training in the following topics: (3-31-22)

a. Firearms: Eight (8) hours and an annual proficiency test (qualification); (3-31-22)

b. Arrest Techniques/Defensive Tactics (ARCON): Eight (8) hours; (3-31-22)

c. Emergency Vehicle Operation: Four (4) hours; (3-31-22)

d. Legal Update(s): Four (4) hours. (3-31-22)

02. County Detention Officers. To retain POST certification, a county detention officer must complete a minimum of forty (40) hours of continuing law enforcement training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. (4-6-23)

03. Emergency Communications Officers. To retain POST certification, an emergency communications officer must complete a minimum of forty (40) hours of continuing training related to public safety emergency communications every two (2) calendar years beginning January 1 following the date the officer was certified. (3-31-22)

04. Misdemeanor Probation Officers. To retain POST certification, a misdemeanor probation officer must complete a minimum of forty (40) hours of continued training related to misdemeanor probation every two (2) calendar years beginning January 1 following the date the officer was certified. (10-7-26)T

05. Instructor Credit. POST certified instructors in good standing who instruct POST approved courses in Firearms, Arrest Techniques/Defensive Tactics (ARCON), or Emergency Vehicle Operation shall satisfy the mandated requirements for retaining basic certification for those specific topics outlined in Subsections 131.01.a. through c. of this rule. (10-7-26)T

0~~4~~6. Tolling of Two-Year Period. The two (2) year continuing training period shall be tolled while an officer is on active military duty, and recommence upon the officer's return to duty with his agency. The agency shall submit a Notice of Separation/Change in Status form upon the officer's departure from and return to the agency. (3-31-22)

IDAPA 13 – IDAHO DEPARMENT OF FISH AND GAME

13.01.09 – RULES GOVERNING TAKING OF GAME BIRDS AND UPLAND GAME ANIMALS

DOCKET NO. 13-0109-2601

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 36-103, 36-104, and 36-409, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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 purpose of this rulemaking is to explore the opportunity for expanding electronic tagging (e-tagging) options to certain game birds. By allowing e-tagging validation, the Department is attempting to modernize processes and eliminate the need for a paper tag in the field, for those who are interested. This will help mitigate the trouble of faded, washed out, or lost paper tags, if a hunter chooses the e-tagging option.

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

There will be no fiscal impact on state funds.

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

There will be no fees impacted as a result of this rulemaking.

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 1, 2026 Idaho Administrative Bulletin, Vol. 26-4, page 11.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Amber Worthington at 208-334-3771.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2026.

DATED this 20th day of August, 2026.

Amber Worthington
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut St.
P.O. Box 25
Boise, ID 83707
208-334-3771
Comment here.

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0109-2601
(Only Those Sections With Amendments Are Shown.)

13.01.09 – RULES GOVERNING TAKING OF GAME BIRDS AND UPLAND GAME ANIMALS

100. GAME BIRD TAGS.

01. Game Tags. No person may hunt game birds anywhere within the state, except licensed shooting preserves, without having in possession the appropriate game tag as required by Section 36-409, Idaho Code. (3-31-22)

02. General and Controlled Hunt Tags. The Commission may authorize general or controlled hunts by proclamation. (3-31-22)

a. A general hunt game tag is valid in any general hunt for the calendar year. (3-31-22)

b. A controlled hunt tag is valid only for the controlled hunt for which the tag was drawn. For turkey only, a controlled hunt tag is also valid in any general hunt for the calendar year. (3-31-22)

03. Game Bird Tag Validation and Attachment. Any person who kills a game bird for which a game tag is required under Section 36-409(c), Idaho Code, must immediately validate the appropriate tag ~~and securely attach the validated tag to the carcass~~. Tags may be paper or electronic, as determined by the hunter at time of purchase. Electronic tag validation requires submission via the Department's official mobile app. Paper tag validation means completely removing the two (2) triangles on the tag corresponding to the day and month of the kill date. The validated tag must remain attached to the carcass during transit to the place of final storage or final consumption. ~~(3-31-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

152. UPLAND GAME BIRD PERMIT (DEPARTMENT-STOCKED BIRDS).

01. Upland Game Bird Permit. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas, or at other locations where the Department stocks pheasants, as identified by Commission proclamation, must have a valid paper or electronic Upland Game Bird Permit in possession. ~~(3-31-22)~~( )

02. Permit Limit. Each Upland Game Bird Permit has a limit of six (6) roosters (cocks). Multiple permits may be purchased. (3-31-22)

03. Permit Validation. Any person harvesting a pheasant where an Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession. Tags may be paper or electronic, as determined by the hunter at time of purchase. Electronic tag validation requires submission via the use of the Department's official mobile app. Paper tags must be validated by entering the harvest date and location in ~~Non Erasable~~ permanent ink~~,~~ and removing a notch from the permit for each pheasant taken. ~~(3-31-22)~~( )

IDAPA 13 – IDAHO DEPARMENT OF FISH AND GAME

13.01.10 – RULES GOVERNING IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

DOCKET NO. 13-0110-2601

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) 36-103, 36-104, 36-504, and 36-506, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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 purpose of this rulemaking is to provide the Department the ability to manage Chronic Wasting Disease (CWD) management zones to the specific Game Management Unit (GMU). The language revision would make moving an animal carcass between GMUs within a CWD management zone illegal whether salvaged or taken through hunting. Current language allows movement of whole carcasses, that may contain brain or spinal tissue, between GMUs within a CWD management zone.

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

There will be no fiscal impact on state funds.

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

There will be no fees impacted as a result of this rulemaking.

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 6, 2026, Idaho Administrative Bulletin, Vol 26-5, page 11.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tricia Hebdon at 208-287-2704.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2026.

DATED this 20th day of August, 2026.

Amber Worthington - Deputy Director
Idaho Department of Fish and Game
600 S. Walnut St.
P.O. Box 25
Boise, ID 83707
208-334-3771
Comment here.

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 13-0110-2601
(Only Those Sections With Amendments Are Shown.)

13.01.10 – RULES GOVERNING IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

150. CWD MANAGEMENT RESTRICTIONS.

01. Designation of CWD Management Zone. The Commission may designate CWD Management Zone(s) where wildlife is subject to increased risk of acquiring CWD based on presence of CWD-infected animals and information on wildlife movement. The Director may designate CWD Management Zone(s) on a temporary basis, for a period not to exceed ninety (90) days and subject to Commission review. (4-6-23)

02. Prohibitions. It is unlawful to: (4-6-23)

a. Import into Idaho the carcass or any part of deer, elk, or moose from another state, Canadian province, or country (other than Canada) with any documented CWD; (4-6-23)

b. Transport the carcass or any part of deer, elk, or moose out of ~~any CWD~~ the Game Management ~~Zone to any portion of the state that is not a designated~~ Unit of harvest or salvage within a CWD Management Zone; or ~~(4-6-23)~~( )

c. Possess the carcass or any part of deer, elk, or moose that: has been imported from another state, Canadian province or country with a documented case of CWD; or transported out of any CWD Management Zone to or across any part of the state that is not a designated CWD Management Zone. (4-6-23)

03. Exceptions. This section does not apply to: (4-6-23)

a. Domestic cervids regulated under Chapter 37, Title 25, Idaho Code; (4-6-23)

b. Meat that is cut and wrapped; (4-6-23)

c. Quarters or deboned meat that does not include brain or spinal tissue; (4-6-23)

d. Edible organs, excluding brains; (4-6-23)

e. Hides without heads; (4-6-23)

f. Upper canine teeth (ivories); (4-6-23)

g. Finished taxidermy; (4-6-23)

h. Dried antlers; (4-6-23)

i. Cleaned and dried skulls or skull caps; (4-6-23)

j. Skull caps that do not include brain or spinal tissue; or (4-6-23)

k. Head or tissue from a CWD Management Zone, provided it is presented to the Department for sampling purposes, with the Department to keep possession for appropriate tissue disposal. (4-6-23)

04. Disposal of Carcasses or Parts in Violation. The Department may seize carcasses or parts imported, transported, or possessed in violation of this section, with a person in violation of this section responsible for handling and disposal costs, as authorized under Chapters 34 and 53, Title 19, Idaho Code. (4-6-23)

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO STATE LIQUOR DIVISION

15.10.01 – RULES OF THE IDAHO STATE LIQUOR DIVISION

DOCKET NO. 15-1001-2601

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 23-206(b) Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

In accordance with Section 67-5292, Idaho Code, this agency is reviewing IDAPA 15.10.01 to assess whether the content of the rule chapter is still necessary. The agency proposes to eliminate the Resident Supplier Representative rule section (15.10.01.021.07) in its entirety, to proactively address potential constitutional challenges.

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

There are no fees being changed as a result of this rulemaking.

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

There is no fiscal impact as a result of the changes being made.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol. 26-7 Page 66.

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 Lisa Johnson (208) 947-9410.

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 28, 2026.

DATED this 1st day of September, 2026.

Lisa Johnson, Accounting and Analytics Manager
Idaho State Liquor Division
1349 E Beechcraft Ct
Boise, ID 83716
(208) 947-9410

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-1001-2601
(Only Those Sections With Amendments Are Shown.)

15.10.01 – RULES OF THE IDAHO STATE LIQUOR DIVISION

021. SUPPLIERS.

01. Obligations. Suppliers will conform to the requirements of the Tax and Trade Bureau of the U.S. Department of Treasury. (7-1-24)

02. Liquor Shipments. Pursuant to Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, all Liquor transported into the state of Idaho is under the direction of the Division. (7-1-24)

a. It is a violation of Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, for any Supplier or other party to ship Liquor into the state of Idaho for purposes not authorized by the Director. (7-1-24)

b. The Division reserves the right to select the mode of transportation for all Liquor within the state of Idaho. (7-1-24)

03. Title to Liquor, Wines and Related Products. Title to Product Line items passes from the Supplier to the Division when the product is accepted, unless Product Line items are delivered directly to Bailment status. (7-1-24)

a. The Division reserves the right to conduct quality tests or inspect products. (7-1-24)

b. The Division reserves the right to reject any Product Line item that does not conform to requirements. (7-1-24)

c. In the event the Division rejects any delivery, ownership remains with the Supplier. It is the Supplier's responsibility to remove or relocate any refused products. (7-1-24)

04. Product Returns. Product Line Items may be returned to Suppliers by the Division in accordance with the Tax and Trade Bureau of the U.S. Department of Treasury regulations. (7-1-24)

05. New Listings. New Listings will be added at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (7-1-24)

06. Delisting. Delistings are at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (7-1-24)

~~**07. Resident Supplier Representatives**. All Suppliers doing business with the Division will have resident representation. A resident Supplier Representative cannot have been convicted of any felony. (7-1-24)~~

0~~8~~7. **Supplier Representative Permits**. Supplier Representatives will obtain a permit from the Division to conduct business at any State Store or Distributing Station. (7-1-24)

a. Permits will not be issued to any retail licensee or a distributor of beer or Wine. (7-1-24)

b. Supplier Representatives may represent more than one (1) Supplier without additional permit fees. (7-1-24)

0~~9~~8. Samples. Samples are limited to ten (10) Wine Gallons per month and the sizes of Samples are that which are permitted by federal regulation or statute. (3-25-22)

~~10~~09. Promotional Samples. Promotional Samples are limited to fifty (50) ml size bottles unless specified otherwise by the Director. (7-1-24)

1~~1~~0. Contact With Licensees. No Supplier Representative, or anyone acting in that capacity, will deliver any Liquor, Wine, or beer sold by the Division to a Licensee's place of business, other than Samples of items that are not carried in that Licensee's Product Line. (7-1-24)

1~~2~~1. Liquor Displays. The Division regulates all Retail Store Liquor displays. (7-1-24)

1~~3~~2. Violations. Any Supplier Representative, or anyone acting in that capacity, who violates Title 23, Idaho Code, or any rule of the Division, may subject the manufacturer's, wholesaler's or Distributor's products to removal from the Division's Product Line or; the Director, at his discretion, may suspend (temporarily or permanently) their Supplier Representative permit. (7-1-24)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.19 – IDAHO FOOD CODE

DOCKET NO. 16-0219-2601

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 37-121 and 39-1603, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Thursday, October 15, 2026 3:00 p.m. (MT)
In Person: 450 W. State Street, 10th Floor Boise ID 83720 Conference Rm 10B **Virtual: Meeting link: https://teams.microsoft.com/meet/245819167492274?p=GB7y5EYBnjfY1GgXM8 Meeting ID: 245 819 167 492 274 Passcode: kB6DU3nR Dial in by phone 1 972-454-4077 United States, Dallas Boise 1-208-609-5034 Phone conference ID: 644 819 217#**

Monday, October 19, 2026 11:00 a.m. (MT)
In Person: 450 W. State Street, 10th Floor Boise ID 83720 Conference Rm 10B **Virtual: Meeting link: https://teams.microsoft.com/meet/248872876825281?p=OF0yU63ZG4nAkghqha Meeting ID248 872 876 825 281: PasscodeBU78dF6B: Dial in by phone 1 972-454-4077 United States, Dallas Boise 1-208-609-5034 Phone conference ID: 860 794 288#**

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

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

This rulemaking was conducted in accordance with Idaho Code Section 67-5292, whereas the chapter is due for 8-year review. The proposed rule implements changes enacted in S.B. 1283, the Idaho Direct-to-Consumers Commerce Act, enacted during the 2026 legislative session.

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

There are no changes to fees.

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

There is no 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.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Idaho Administrative Bulletin, Vol. 26-7 page 68.

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 "Food Code, 2013 Recommendations of the United States Public Health Service Food and Drug Administration," Publication PB2013-110462 is considered the model food code and is incorporated by reference. The Food Code is adopted with modifications and additions, to the extent it does not conflict with Chapter 2, Title 37, Idaho Code, or other applicable state statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Estela Cabrera at DHWRules@dhw.idaho.gov or (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 October 28, 2026.

DATED this 7th day of October, 2026.

Jared Larsen
Chief of Staff
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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0219-2601
(Only Those Sections With Amendments Are Shown.)

16.02.19 – IDAHO FOOD CODE

000. LEGAL AUTHORITY.
Sections 37-121 and 39-1603, Idaho Code, authorize the ~~Board~~ Department to adopt rules for the regulation of food establishments to protect public health. ~~(4-6-23)~~( )

001. APPLICABILITY.

01. These Rules Apply to Food Establishments. The following ~~F~~food establishments ~~under Section 39-1602, Idaho Code,~~ must follow these rules. ~~Those facilities include the following:~~ ~~(4-6-23)~~( )

a. Restaurants, catering facilities, taverns, kiosks, vending facilities, commissaries, cafeterias, mobile food facilities, and temporary food facilities; (4-6-23)

b. Schools, senior centers, hospitals, residential care and treatment facilities, nursing homes, correctional facilities, camps, food banks, and church facilities; (4-6-23)

c. Retail markets, meat, fish, delicatessen, bakeries, supermarkets, convenience stores, health food stores, and neighborhood markets; and (4-6-23)

d. Food, water and beverage processing and bottling facilities that manufacture, process, and distribute food, water, and beverages, and are not inspected for food safety by a federal agency. (4-6-23)

~~**02. These Rules Do Not Apply to These Establishments Under Idaho Code**.~~ ~~(4-6-23)~~

~~**a.** Agricultural markets as exempted in Section 39-1602, Idaho Code.~~ ~~(4-6-23)~~

~~**b.** Bed-and-breakfast operations that prepare and offer food for breakfast only to guests. The number of guest beds must not exceed ten (10) beds under Section 39-1602, Idaho Code.~~ ~~(4-6-23)~~

~~**c.** Day care facilities regulated by Sections 39-1101 through 39-1119, Idaho Code.~~ ~~(4-6-23)~~

~~**d.** Licensed outfitters and guides regulated by Sections 36-2101 through 36-2119, Idaho Code.~~ ~~(4-6-23)~~

~~**e.** Low-risk food establishments, as exempted in Section 39-1602, Idaho Code, which offer only non-TCS foods.~~ ~~(4-6-23)~~

~~**f.** Farmers market vendors and roadside stands that only offer or sell non-TCS foods or cottage foods.~~ ~~(4-6-23)~~

~~**g.** Non-profit charitable, fraternal, or benevolent organizations that do not prepare or serve food on a regular basis as exempted in Section 39-1602, Idaho Code. Food is not considered to be served on a regular basis if it is not served for more than five (5) consecutive days on no more than three (3) occasions per year for foods that are non-TCS. For all other food, it must not be served more than one (1) meal per week.~~ ~~(4-6-23)~~

~~**h.** Private homes where food is prepared or served for family consumption or receives catered or home-delivered food as exempted by Section 39-1602, Idaho Code.~~ ~~(4-6-23)~~

~~i. Cottage food operations, when the consumer is informed and must be provided contact information for the cottage food operations by a clearly legible label on the product packaging; or a clearly visible placard at the sales or service location that also states:~~ ~~(4-6-23)~~

~~i. The food was prepared in a home kitchen that is not subject to regulation and inspection by the regulatory authority; and~~ ~~(4-6-23)~~

~~ii. The food may contain allergens.~~ ~~(4-6-23)~~

0~~3~~2. **How to Use This Chapter of Rules**. These rules are modifications, additions, or deletions made to the federal publication incorporated by reference in Section 002 of these rules. To follow these rules the publication is required. Changes to those standards are listed in these rules by which section of the incorporated publication is being modified at the beginning of each Section of rule. Citations to the incorporated Food Code are in the format "x-xxx.xx." (4-6-23)

002. INCORPORATION BY REFERENCE.
The Department adopted by reference the "Food Code, 2013 Recommendations of the United States Public Health Service Food and Drug Administration," Publication PB2013-110462, hereafter referred to as the incorporated Food Code. A certified copy of this publication may be reviewed at the main office of the Department. It is also available online at http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm. This publication is being adopted with modifications and additions as follows, to the extent it does not conflict with Chapter 2, Title 37, Idaho Code, or other applicable state statute: ~~(4-6-23)~~( )

01. Chapter 1, Purpose and Definitions. Additions and modifications have been made to this chapter. See Sections 100 - 199 of these rules. (4-6-23)

02. Chapter 2, Management and Personnel. Modifications have been made to this chapter. See Sections 200 - 299 of these rules. (4-6-23)

03. Chapter 3, Food. Modifications have been made to this chapter. See Sections 300-399 of these rules. (4-6-23)

04. Chapter 4, Equipment, Utensils, and Linens. This chapter has been adopted with no modifications. (4-6-23)

05. Chapter 5, Water, Plumbing and Waste. This chapter has been adopted with no modifications. (4-6-23)

06. Chapter 6, Physical Facilities. Modifications have been made to this chapter. See Sections 600-699 of these rules. (4-6-23)

07. Chapter 7, Poisonous or Toxic Materials. Modifications have been made in this chapter. See Sections 700 - 799 of these rules. (4-6-23)

08. Chapter 8, Compliance and Enforcement. Modifications have been made in this chapter. See Sections 800-899 of these rules. (4-6-23)

09. Annexes 1 Through 7 Are Excluded. These sections have not been adopted. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

110. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.
The definitions under this Section are modifications or additions to the definitions provided in the incorporated Food Code. (4-6-23)

01. **Agricultural Market**. Any venue ~~where a fixed or mobile retail food establishment can engage~~ engaging in the sale of raw or fresh fruits, vegetables, and nuts in the shell. It may also include the sale of factory sealed non-TCS foods. Agricultural market means the same as "farmers market" or "roadside stand." ~~(4-6-23)~~( )

~~**02.** **Board**. The Idaho Board of Health and Welfare under Section 56-1005, Idaho Code.~~ ~~(4-6-23)~~

0~~3~~2. **Consent Order**. An enforceable agreement between the regulatory authority and the license holder to correct violations that caused the actions taken by the regulatory authority. (4-6-23)

0~~4~~3. **Core Item**. A provision in the incorporated Food Code that is not designated as a priority item or a priority foundation item and includes items that usually relate to general sanitation, operation controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance. (4-6-23)

~~**05.** **Cottage Food Operation**. When a person or business prepares or produces cottage food products in the home kitchen of that person's primary residence or other designated kitchen or location.~~ ~~(4-6-23)~~

~~**06.** **Cottage Food Product**. Non-TCS foods that are sold directly to a consumer. Examples include: baked goods, fruit jams, jellies, fruit pies, breads, cakes, pastries, cookies, candies, confections, dried fruits, dry herbs, seasonings and mixtures, cereals, trail mixes, granola, nuts, vinegar, popcorn and popcorn balls, and cotton candy.~~ ~~(4-6-23)~~

0~~7~~4. **Department**. The Idaho Department of Health and Welfare under Section 56-1002, Idaho Code, or its designee. (4-6-23)

0~~8~~5. **Director**. The Director of the Idaho Department of Health and Welfare under Section 56-1003, Idaho Code. (4-6-23)

0~~9~~6. **Embargo**. An action taken by the regulatory authority that places a food product or equipment used in food production on hold until a determination is made on the product's safety. (4-6-23)

~~10~~07. **Enforcement Inspection**. An inspection conducted by the regulatory authority when compliance with these rules by a food establishment is lacking and violations remain uncorrected after the first follow-up inspection to a routine inspection. (4-6-23)

~~11~~08. **Farmers Market**. Any fixed or mobile retail food establishment at which farmer producers sell agricultural products directly to the public. Farmers market means the same as "agricultural market" and "roadside stand." (4-6-23)

~~12~~09. **Food Establishment**. Modifications to Section 1-201.10 amend the definition of "food establishment" as follows: (4-6-23)

a. Delete Subparagraph 3(c) of the term "food establishment" in the incorporated Food Code; (4-6-23)

b. Add Subparagraph 3(h) to the term "food establishment" to clarify that a ~~cottage~~ homemade food operation is not a food establishment. ~~(4-6-23)~~( )

1~~3~~0. **Food Processing Plant**. Modification to Section 1-201.10 amends the definition of "food processing plant" by deleting Subparagraph 2 of the term "food processing plant" in the incorporated Food Code. (4-6-23)

1~~4~~1. **Good Retail Practice**. Preventive measures that include practices and procedures that effectively control the introduction of pathogens, chemicals, and physical objects into food. (4-6-23)

15. **High-Risk Food Establishment**. Performs the following: (4-6-23)

a. Extensive handling of raw ingredients; (4-6-23)

b. Preparation processes that include the cooking, cooling, and reheating of TCS foods; or (4-6-23)

c. A variety of processes requiring hot and cold holding of TCS foods. (4-6-23)

111. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.
The definitions under this Section are modifications or additions to the definitions provided in the incorporated Food Code. (4-6-23)

01. License. Is used in these rules the same as the term "permit" is used in the incorporated Food Code. (4-6-23)

02. License Holder. Is used in these rules the same as the term "permit holder" is used in the incorporated Food Code. (4-6-23)

03. Low-Risk Food Establishment. Provides factory-sealed prepackaged non-TCS foods. The establishment may have limited preparation of non-TCS foods only. (4-6-23)

04. Medium-Risk Food Establishment. Includes the following: (4-6-23)

a. A limited menu of one (1) or two (2) items; (4-6-23)

b. Prepackaged raw ingredients cooked or prepared to order; (4-6-23)

c. Raw ingredients requiring minimal assembly; (4-6-23)

d. Most products are cooked or prepared and served immediately; or (4-6-23)

e. Hot and cold holding of TCS foods is restricted to minimal holding between preparation and service. (4-6-23)

05. Priority Item. A provision in the incorporated Food Code whose application contributes directly to the elimination, prevention, or reduction to an acceptable level, hazards associated with foodborne illness or injury, and there is no other provision that more directly controls the hazard. A priority item includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing, and is an item that is denoted in the incorporated Food Code with a superscript (P). (4-6-23)

06. Priority Foundation Item. A provision in the incorporated Food Code whose application supports, facilitates, or enables one (1) or more priority items. Priority foundation item includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling. A priority foundation item is an item that is denoted in the incorporated Food Code with a superscript ~~(~~Pf~~)~~. ~~(4-6-23)~~( )

07. Regulatory Authority. The Department is the regulatory authority authorized to enforce compliance ~~of~~ with these rules. ~~(4-6-23)~~( )

a. The Department is responsible for preparing the rules, rule amendments, standards, policy statements, operational procedures, program assessments, and guidelines. (4-6-23)

b. The seven (7) Public Health Districts have been assigned and the Division of Licensing and Certification has been designated by the Director as the regulatory authority for the purpose of issuing licenses, collecting fees, conducting inspections, reviewing plans, determining compliance with the rules, investigating complaints and illnesses, examining food, embargoing food, and enforcing these rules. (4-6-23)

08. Risk Control Plan. A document describing the specific actions to be taken by the license holder to

address and correct a continuing hazard or risk within the food establishment. (4-6-23)

09. Risk Factor Violation. Improper practices or procedures that are most frequently identified by epidemiologic investigation as a cause of foodborne illness or injury. (4-6-23)

~~**10. Roadside Stand**. Any fixed or mobile retail food establishment at which an individual farmer producer sells their own agricultural products directly to consumers. Roadside stand means the same as "agricultural market" and "farmers market."~~ ~~(4-6-23)~~

1~~1~~0. TCS. Time/Temperature Control for Safety. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

360. ADVISING CONSUMERS OF HEALTH RISK OF RAW OR UNDERCOOKED FOODS.
Modification to Section 3-603.11. (4-6-23)

01. Consumption of Animal Foods That Are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens. Except as specified in Section 3-401.11(C) and Subparagraph 3-401.11(D)(3) and under Section 3-801.11(D), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item, or as a raw ingredient in another ready-to-eat food, the license holder must inform the consumers of health risks. (4-6-23)

02. How to Inform Consumers of Health Risk. The license holder must use any effective means to inform consumers of potential health risks. Some effective ways that may be used to inform consumers are: brochures, deli case placards, signs or ~~verbal~~ written warnings that state, "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions." ~~(4-6-23)~~( )

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.22 – RESIDENTIAL ASSISTED LIVING FACILITIES

DOCKET NO. 16-0322-2601

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

GOVERNOR'S STATEMENT: An earlier effective date prior to legislative review is required in accordance with the provisions of Idaho Code Section 67-5226(2) because this rulemaking reduces a regulatory burden that would otherwise impact individuals or businesses.

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2026.

AUTHORITY: In compliance with Idaho Code Sections 67-5221(1) and 67-5226 notice is hereby given that this agency has adopted a temporary rule and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-3305 and 39-3358, Idaho Code.

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

Tuesday, October 20, 2026 **1:30 p.m. (MT)**
Join using the meeting link: **https://teams.microsoft.com/meet/22145972287364?p=ES9Cc76TPcYYvqmCpk** **Meeting ID: 221 459 722 873 64** **Passcode: Aw6kc2Ep** **Dial in by phone** **1 972-454-4077 United States, Dallas** **Boise 1-208-609-5034** **Phone conference ID: 447 013 552#**

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

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

This rulemaking is being undertaken to update Section 110.02 to eliminate a $500 building evaluation fee because a review of the rule indicated that the Department does not have clear statutory authority to charge the fee based on a 2025 amendment to Section 39-3340(3)(b), Idaho Code.

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

Funds generated by the eliminated fee are under $10,000 per fiscal year. No negative impact to program operation or staffing is anticipated.

NEGOTIATED RULEMAKING: Pursuant to Idaho Code Section 67-5220(2) negotiated rulemaking was not conducted because the rulemaking eliminates a fee that has no statutory authority and no negotiation was necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Estela Cabrera at DHWRules@dhw.idaho.gov or by phone 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 October 28, 2026.

DATED this 7th day of October, 2026.

Jared Larsen
Chief of Staff
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

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 16-0322-2601
(Only Those Sections With Amendments Are Shown.)

16.03.22 – RESIDENTIAL ASSISTED LIVING FACILITIES

110. FACILITY LICENSE APPLICATION.

01. License Application. License application forms are available online at the Licensing Agency's website at http://assistedliving.dhw.idaho.gov. The applicant must provide the following information: (3-15-22)

a. A copy of the Certificate of Assumed Business Name from the Idaho Secretary of State; (3-15-22)

b. A complete set of printed operational policies and procedures; (3-15-22)

c. A copy of the Purchase Agreement, Lease Agreement, or Deed; (7-1-26)

d. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings; and (7-1-26)

e. The following must be obtained: (7-1-26)

i. Occupancy permit that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; (7-1-26)

ii. Occupancy permit that all wiring in the facility complies with current electrical codes; (7-1-26)

iii. Occupancy permit or evidence that the facility meets local zoning codes for occupancy and local fire official documenting that the facility meets local fire codes for occupancy. (7-1-26)

02. Written Request for Building Evaluation. The applicant submits a request in writing to the Licensing Agency for a building evaluation. It must include the physical address of the building, the name, and the telephone number of the person who is to receive the building evaluation report~~, and be accompanied by a five~~

~~hundred dollar ($500) initial building evaluation fee~~. ~~(7-1-26)~~(7-1-26)T

03. Identification of the Licensed Administrator. The applicant must provide a copy of the administrator's license and criminal history background check. (7-1-26)

OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR, DIVISION OF FINANCIAL MANAGEMENT

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.26 – MEDICAID PLAN BENEFITS

DOCKET NO. 16-0326-26L2

NOTICE OF REVOCATION OF FINAL RULES

AUTHORITY: In compliance with Sections 67-5202(2), Idaho Code, 67-5203(4)(d), Idaho Code, and 67-5204(2)(b)-(c), Idaho Code, notice is hereby given that the Office of Administrative Rules Coordinator has taken action to revise Idaho's Administrative Code to remove certain rules that have been repealed by an act of the Idaho Legislature.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for publishing this notice:

The Idaho Legislature passed Senate Bill 1410 (2026) with broad support and Governor Little signed it into law on April 2, 2026. This legislation added a new section of Idaho Code to address encounter rates due to change in scope of services and repealed certain rules relating to Medicaid Plan Benefits. Section 2 of the bill contained a sunset clause that makes IDAPA 16.03.26.307.03 null, void, and of no force and effect on and after October 1, 2026.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance with technical questions concerning the revocation of this final rule, contact Darren Damon at 208-854-3097.

DATED this 7th day of October, 2026.

Brad Hunt
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: (208) 854-3096
Email: adminrules@dfm.idaho.gov
Website: https://adminrules.idaho.gov/

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.26 – MEDICAID PLAN BENEFITS

DOCKET NO. 16-0326-2601

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) 56-202(b), 56-265, and 56-276, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Friday, October 16, 2026 3:00 p.m. (MT)	Wednesday, October 21, 2026 2:00 p.m. (MT)
In Person: **450 W. State Street, 10th Floor, Boise ID 83720** **Conference Rm 10B** **Meeting link:** **https://teams.microsoft.com/meet/268008390535088?p=Z1uN8PlvX7JQktHaEu** **Meeting ID: 268 008 390 535 088** **Passcode: qx3g6cn7** **Dial in by phone** **1 972-454-4077 United States, Dallas** **Boise 1-208-609-5034** **Phone conference ID: 894 169 67#**	**In Person:** **450 W. State Street, 10th Floor, Boise ID 83720** **Conference Rm 10B** **Meeting link:** **https://teams.microsoft.com/meet/2280965511466?p=788GW5rm0K7d4Ets0n** **Meeting ID: 228 096 551 146 6** **Passcode: rA22Do75** **Dial in by phone:** **1 972-454-4077 United States, Dallas** **Boise 1-208-609-5034** **Phone conference ID: 168 238 115#**

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

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

These rule changes are proposed to make adjustments for more efficient operation of the State Medicaid program. They align with session laws from the Idaho Legislature and are responsive to CMS and provider network feedback on various topics. The changes do not create new services. Some changes relieve burden on providers. Some changes simplify and/or clarify language or meaning, often where existing language creates unintentional ambiguity. Some changes better position the Department to administer the State Medicaid program and exercise effective utilization management.

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

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 as a result of this rulemaking:

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Idaho Administrative Bulletin, Vol. 26-7 pages 71-72.

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 Estela Cabrera at DHWRules@dhw.idaho.gov or (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 October 28, 2026.

DATED this 7th day of October, 2026.

Jared Larsen
Chief of Staff
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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0326-2601
(Only Those Sections With Amendments Are Shown.)

16.03.26 – MEDICAID PLAN BENEFITS

000. LEGAL AUTHORITY.
Sections 56-202(b), ~~and~~ 56-265, and 56-276, Idaho Code. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

003. BACKGROUND CHECK ~~REQUIREMENT~~S.

01. ~~Background Check Compliance~~. ~~Background checks are required for specific providers under these rules. Providers who are required to have a background check and their contractors must comply with IDAPA 16.05.06.~~ **Waiver for CSW**. A participant may choose to waive the background check requirement for a CSW under consumer-directed services. A waiver must be completed under these rules. ~~(7-1-26)~~( )

~~**02. Variances.** (7-1-26)~~

~~**a.** The Department may allow variances to clearance requirements under certain circumstances. Applicable providers must still complete an application for a background check. (7-1-26)~~

~~**b.** Applicants with prior convictions for disqualifying drug and alcohol related offenses may, with prior written approval of the Department, deliver covered Medicaid Peer Support and Recovery Coaching services.~~

~~(7-1-26)~~

0~~3~~2. Subsequent Convictions, Charges, or Investigations. Once clearances are received, any subsequent criminal, adult, or child protection convictions, charges, or investigations must be immediately reported by the agency to the Department once known. (7-1-26)

0~~4~~3. ~~Providers Subject to Background Check Requirements.~~ Independent CHIS Providers. Independent CHIS providers are subject to background check requirements pursuant to Chapter 27, Title 56, Idaho Code and IDAPA 16.05.06. ~~(7-1-26)~~( )

~~**a.** Adult Day Health Agencies. (7-1-26)~~

~~**b.** Behavior Consultation or Crisis Management Providers. (7-1-26)~~

~~**c.** Chore Services Providers. (7-1-26)~~

~~**d.** Community Support Workers. (7-1-26)~~

~~**e.** Contracted Non-Emergency Medical Transportation (NEMT) Providers, with direct contact with participants except for Individual Contracted NEMT providers. (7-1-26)~~

~~**f.** Independent CHIS Providers. (7-1-26)~~

~~**g.** Non-Medical Transportation (NMT) Providers. (7-1-26)~~

~~**h.** Personal Assistance Agencies (PAA), including PAAs Acting as Fiscal Intermediaries. (7-1-26)~~

~~**i.** Provider types deemed by the Department to be at high risk for fraud, waste, or abuse. (7-1-26)~~

~~**j.** Respite Care Providers. (7-1-26)~~

~~**k.** Service Coordination Agencies. (7-1-26)~~

~~**l.** Support Brokers. (7-1-26)~~

~~**m.** Supported Employment Agencies. (7-1-26)~~

004. (RESERVED)

005. DEFINITIONS: A THROUGH H.

01. Activities of Daily Living (ADL). Basic self-care activities that meet an individual's needs to sustain them in a daily living environment, and includes bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (7-1-26)

02. Agency. A business entity comprised of an administrator and their employees providing a Medicaid service. Individuals cannot be an agency. (7-1-26)

03. Adult Day Health (ADH). Defined in Section 67-5006(5), Idaho Code, as adult day care. (7-1-26)

04. Amortization. The systematic recognition of the declining utility value of certain assets, usually not owned by the organization or intangible in nature. (7-1-26)

05. Audit. An examination of provider ~~records~~ documents and financial records outside of processes in IDAPA 16.05.07, to determine compliance with Medicaid requirements and regulations or quality assurance. ~~(7-1-26)~~( )

06. Budget Adjustment Factor (BAF). Total budget for nursing facility (NF) payment established by the Idaho legislature effective on July 1 annually and compared to the annual expected Medicaid rates for the same rate year. BAF may be positive or negative and applies to all NF rates calculated under the established prospective rate system. BAF is not applied to the calculated customary charge for each NF nor applied to any retrospectively settled NF. (7-1-26)

07. Case Mix Adjustment Factor. Factor used to adjust a provider's direct care rate component for the difference in the average Medicaid acuity and the average facility-wide acuity. The average Medicaid acuity is from the picture date immediately preceding the rate period. The facility-wide acuity is the average of the indexes corresponding to the cost reporting period. (7-1-26)

08. Case Mix Index (CMI). Numeric score assigned to each facility resident, based on their physical and mental condition projecting the relative resources needed to provide their care. (7-1-26)

a. Facility-Wide CMI. Average of the entire facility's CMIs identified at each picture date during the cost reporting period. If CMIs are unavailable for applicable quarters due to lack of data, CMIs from available quarters are used. (7-1-26)

b. Medicaid CMI. Average of the weighting factors assigned to each Medicaid resident in a facility on the picture date, based on their PDPM classification. Medicaid status is based upon information contained in the MDS databases. When Medicaid identifiers are found to be incorrect, the Department adjusts the Medicaid CMI and reestablishes the rate. (7-1-26)

c. State-Wide Average CMI. Simple average of all facilities "facility-wide" CMIs used to establish the rate limitation July 1st of each year. (7-1-26)

09. Children's Habilitation Intervention Services (CHIS). CHIS are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. (7-1-26)

10. Children's Health Insurance Program (CHIP). Medical assistance for children under Idaho's Title XXI State Plan. The term Medicaid for the purposes of this rule apply to CHIP. (7-1-26)

11. Claim. An itemized bill for services rendered to one (1) participant by a provider and submitted to the Department for payment. (7-1-26)

12. CMS. Centers for Medicare and Medicaid Services. (7-1-26)

13. Community Support Worker (CSW). An individual, agency, or vendor selected and paid by the participant to provide CSW services. (7-1-26)

14. Conflict of Interest. A situation in which an agency or person directly or indirectly influences, or appears to influence, the direction of a participant to other services for financial gain. ( )

145. Consumer-Directed Community Supports (CDCS). A flexible program option for participants eligible for the Children's Home and Community Based Services (HCBS) State Plan Option, and Adult Developmental Disabilities (DD) waiver. Supports include SDCS and FDCS program options. (7-1-26)

156. Cost Report. A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (7-1-26)

167. Customary Charges. The rates charged to Medicare participants and other paying patients as reflected in the facility's records. Charges are adjusted downward, when the provider does not hold most patients liable for payment on a charge basis or, when there are not reasonable collection efforts. Reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt under PRM. (7-1-26)

~~17. Date of Discharge. The day a participant is released from care that is not a day of care for nursing facilities.~~ ~~(7-1-26)~~

18. Day Treatment Services. Developmental services provided regularly during normal working hours on weekdays by, or on behalf of, an ICF/IID that do not include recreational, speech, physical, or occupational therapy, or other services paid for, or required to be provided by, a school or other entity. (7-1-26)

19. Department. The Idaho Department of Health and Welfare or its designee. (7-1-26)

20. Director. The Director of the Department or their designee. (7-1-26)

21. Developmental Disability (DD). As defined in Section 66-402(5), Idaho Code. (7-1-26)

~~22. Dual Eligible. Participants eligible for Medicaid under IDAPA 16.03.05, when their eligibility is not provided solely under the Woman Diagnosed with Breast or Cervical Cancer program, and who are enrolled in both Medicare Parts A and B.~~ ~~(7-1-26)~~

2~~3~~2. **Durable Medical Equipment (DME)**. Equipment and appliances that are not orthotics or prosthetics; are primarily and customarily used to serve a medical purpose; are generally not useful to an individual in the absence of a disability, illness, or injury; can withstand repeated use; can be reusable or removable; and are suitable for use in any setting in which normal life activities take place. (7-1-26)

243. **Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Services**. Medically necessary services are health care, diagnostic services, treatment, and other measures necessary to correct or ameliorate defects, physical and mental illness, and conditions discovered by the screening services as defined in Section 1905(r) of the SSA, whether such services are covered under the State Plan. (7-1-26)

2~~5~~4. **Educational Services**. Services provided online, in buildings or areas designated for use as a school or educational setting; provided during time periods in which educational instruction takes place in the school day; included in a participant's individual educational plan for school-~~-~~age individuals. ~~(7-1-26)~~( )

2~~6~~5. **Evidence-Based Interventions**. Interventions that have been scientifically researched and reviewed in peer-reviewed journals, replicated successfully by multiple independent investigators, have been shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed individuals trained in the evidence-based model (EBM). (7-1-26)

2~~6~~7. **Evidence-Informed Interventions**. Interventions that use elements or components of evidence-based techniques and are delivered by a qualified individual, who are not certified or credentialed in an EBM. (7-1-26)

2~~7~~8. **Facility**. Facility refers to a hospital, nursing facility (NF), or intermediate care facility for individuals with intellectual disabilities (ICF/IID). (7-1-26)

2~~8~~9. **Family-Directed Community Supports (FDCS)**. A program option for children eligible for Children's HCBS State Plan Option. (7-1-26)

~~30~~29. **Financial Management Services (FMS)**. Services provided by an FEA. (7-1-26)

3~~1~~0. **Fiscal Employer Agent (FEA)**. An agency that provides FMS selected by participants who have chosen the CDCS option. FEA is selected by the participant. (7-1-26)

31. Gold Card. A program for managed care providers eligible for exemption from prior authorization requirements pursuant to Section 56-276, Idaho Code. ( )

a. Card Rescission. The methodology for determining a provider's risk-weighted claim sampling score and the acceptable benchmark for rescission of a gold card can be found in the Idaho Medicaid Provider Handbook. ( )

32. **Goods**. Tangible products or merchandise that are authorized on the SSP. (7-1-26)

33. **Home and Community Based Services (HCBS)**. Long-term services and supports ~~that assist~~ delivered to eligible participants ~~to remain~~ in ~~their~~ home ~~and~~ or community settings that enable them to live as independently as possible. HCBS can be authorized to address an assessed need when safe and effective, and the person-centered planning process is included. Services must be medically necessary or decrease the need for institutional care and other Medicaid services, promote community inclusion, or increase the participant's safety, and comply with federal requirements. ~~(7-1-26)~~( )

34. **Human Services Field**. A diverse field that is focused on improving the quality of life for participants. Areas of academic study include, but are not limited to, sociology, special education, counseling, psychology, or other areas of academic study as referenced in the Medicaid Provider Handbook. (7-1-26)

35. **Idaho Behavioral Health Plan (IBHP)**. A PIHP that provides behavioral health coverage for Medicaid participants. Behavioral health services include mental health and substance use disorder treatment and case management services. The provision of behavioral health services, as authorized through the IBHP contract, are provided to participants by a network of behavioral health providers. ( )

006. DEFINITIONS: I THROUGH O.

01. **Idaho Medicaid Provider Handbook**. A document that contains policy for the implementation and operations of the Medicaid program. (7-1-26)

02. **In-State Care**. Medical services not including long-term care provided within Idaho or in counties bordering Idaho. (7-1-26)

03. **Inspection of Care Team (IOCT)**. Interdisciplinary team providing inspection of care in licensed ICFs/IID composed of: (7-1-26)

a. An RN; and (7-1-26)

b. A QIDP; and when required, a: (7-1-26)

i. Consultant physician; (7-1-26)

ii. Consultant social worker; or (7-1-26)

iii. When appropriate, other health and human services employees or consultants of the Department. (7-1-26)

04. **Instrumental Activities of Daily Living (IADL)**. Activities performed to support ADL, including, but not limited~~,~~ to, managing money, preparing meals, shopping, light housekeeping, communicating, or accessing the community. ~~(7-1-26)~~( )

05. **Integration**. Promoting a lifestyle for HCBS participants like other community members, including those living in and accessing community resources to enhance the social image and personal competence of HCBS participants. (7-1-26)

06. **Interim Reimbursement Rate (IRR)**. Rate paid for each Medicaid patient day intended to result in total Medicaid payments approximating the amount paid at audit settlement and intended to include any payments allowed over the percentile cap. (7-1-26)

07. **Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)**. An entity licensed as an ICF/IID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (7-1-26)

08. Level of Care. The classification in which a participant is placed, based on severity of need for institutional care. (7-1-26)

09. Level of Support. Amount of services and supports necessary to allow a participant to live independently and safely in the community, as derived from a Department-approved assessment tool. (7-1-26)

10. Licensed Bed Capacity. Number of beds approved by the State's Licensure and Certification Agency for rendering patient care. (7-1-26)

11. Lower of Cost or Charges. Payment to providers (other than public providers furnishing services free of charge or at nominal charges to the public) that is the lesser of the reasonable cost of services or customary charges of like services. Public providers furnishing services free of charge or at a nominal charge are reimbursed fair compensation; considered reasonable cost. (7-1-26)

12. Major Movable Equipment. Major movable equipment as defined in Section 56-101(16), Idaho Code, that also has a unit cost of five thousand dollars ($5,000) or more. (7-1-26)

13. Medicaid-Related Ancillary Costs. Services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs are determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, is considered Medicaid-related ancillaries. (7-1-26)

14. Medical Assistance (Medicaid). Payments for part or all of the cost of services, capitation payments, or managed care costs funded by Titles XIX or XXI of the federal Social Security Act (SSA). (7-1-26)

15. Medical Necessity (Medically Necessary). A service or item is medically necessary if: (7-1-26)

a. It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; (7-1-26)

b. There is no other equally effective course of treatment available or suitable for the participant requesting the service that is more conservative or substantially less costly; (7-1-26)

c. It meets any applicable Department criteria. Services that do not meet criteria require a PA; (7-1-26)

d. Medical services must be of a quality that meets professionally recognized standards of health care and is substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (7-1-26)

16. Medical, Social, and Developmental Assessment (MSDA) Summary. Form used by the Department to gather a participant's medical, social, and developmental history and other summary information required for all DD HCBS program participants under a service plan used to assess and authorize services. ~~(7-1-26)~~( )

17. Medical Supplies. Healthcare-related items that are consumable, disposable, or cannot withstand repeated use by more than one (1) individual, are suitable for use in any setting in which normal life activities take place, and are reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (7-1-26)

18. Minimum Data Set (MDS). Set of screening, clinical, and functional status elements, including common definitions and coding categories, forming the foundation of a comprehensive assessment for all residents of long-term care facilities certified under Medicare or Medicaid. Updated versions of the MDS are evaluated and incorporated into rate setting as necessary. (7-1-26)

19. Minor Movable Equipment. Minor movable equipment as defined in Section 56-101(18), Idaho

Code, with a unit cost under five thousand dollars ($5,000.) (7-1-26)

20. Nominal Charges. A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (7-1-26)

21. Order. Written instructions from a healthcare professional acting within the scope of their practice for a participant's treatment, medications, tests or procedures. Orders shall include: (7-1-26)

a. Participant's name; (7-1-26)

b. Description of item or service; (7-1-26)

c. Length of need, if applicable; (7-1-26)

d. Quantity, if applicable; (7-1-26)

e. Provider's name, National Provider Identification (NPI) and signature; and (7-1-26)

f. Date of signature. (7-1-26)

22. Ordinary. Costs incurred that are customary for normal operation of a business. (7-1-26)

23. Orthotic. Pertaining to or promoting the support of an impaired joint or limb. (7-1-26)

007. DEFINITIONS: P THROUGH Z.

01. Participant. A person eligible for and enrolled in Medicaid. (7-1-26)

02. Patient Driven Payment Model (PDPM). Process to group residents according to the clinical and functional status identified by responses to key elements of the MDS and used for rate setting and determining NF level of care. (7-1-26)

03. Personal Assistance Agency (PAA). An entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for services provided, provides payroll and benefits for ~~personal assistants~~ direct care workers (DCW) working for them, and is the employer of record as well as the actual employer. ~~(7-1-26)~~( )

04. Plan Developer. ~~A~~Depending on service, a QIDP, a SB, an RN, or service coordinator identified by the participant responsible for developing a service plan and subsequent addenda covering all services and supports, based on a person-centered planning process. A plan developer may be paid, unpaid or the unpaid participant themselves. ~~(7-1-26)~~( )

05. Plan Monitor. A person who oversees service delivery on a paid or non-paid basis. For DD services, the plan monitor is a service coordinator. (7-1-26)

06. Plan of Care. A written description of medical, remedial, habilitative, or rehabilitative services to provide to a participant, developed by or under the direction and written approval of a provider. Medications, services, and treatments shall be identified specifically by amount, type, and duration of service. (7-1-26)

07. Primary Care Provider (PCP). A healthcare professional acting within the scope of their practice, who is the first point of contact for routine medical concerns. (7-1-26)

08. Prior Authorization (PA). PA means a written, faxed, or electronic approval from the Department that permits payment or coverage of a medical item or service that is covered only by such authorization. (7-1-26)

09. Property Rental Rate. Rate paid per Medicaid patient day to free-standing nursing facilities in lieu of payment for property costs other than property taxes, insurance, and, for ICF/IID providers, costs of major

movable equipment. (7-1-26)

10. Prosthetic Device. Replacement, corrective, or supportive devices to: (7-1-26)

a. Artificially replace a missing portion of the body; (7-1-26)

b. Prevent or correct physical deformities or malfunctions; or (7-1-26)

c. Support a weak or deformed portion of the body. (7-1-26)

d. Computerized communication devices are not included in this definition. (7-1-26)

11. Provider. Any individual acting under Section 020 including, but not limited to, certified registered nurse anesthetists, nurse practitioners, nurse midwives, clinical nurse specialists, pharmacists, physician assistants, and physicians. Alternatively, a partnership, association, corporation, or organization that furnishes medical goods or services in compliance with these rules. ~~(7-1-26)~~( )

12. Provider Status Review. Written documentation identifying a participant's progress toward goals defined in their service plan. (7-1-26)

13. Qualified Intellectual Disabilities Professional (QIDP). As described in 42 CFR 483.430(a). (7-1-26)

14. Quality Improvement Organization (QIO). An organization that performs utilization and quality control review of health care furnished to Medicare and Medicaid participants. (7-1-26)

15. Recoupment. As detailed in IDAPA 16.05.07. (7-1-26)

16. Recreational Services. Activities and goods that are generally perceived as recreation such as, but not limited to, fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, and special day parties. (7-1-26)

17. Readiness Review. A review conducted by the Department to ensure that each FEA is prepared to enter into and comply with the requirements of the provider agreement and this chapter of rules. (7-1-26)

18. Referral. A documented recommendation from a healthcare professional to see another Medicaid provider for a specific service. (7-1-26)

19. Related Entity. An organization associated or affiliated to a significant extent, or has control of, or is controlled by, that furnishes the services, facilities, or supplies for the provider. (7-1-26)

20. Restrictive Intervention. Any intervention used to restrict rights or freedom of movement and includes chemical, mechanical, and physical restraints, or seclusion. (7-1-26)

21. Retrospective Review. A review of an item or service after it has been provided. The review determines medical necessity and conformity to Medicaid requirements. Claims that have already received payment may be subject to recoupment. (7-1-26)

22. ~~Rural Hospital-Based Behavioral Care Unit~~. ~~A Rural Hospital-Based Provider that qualifies as a behavioral care unit.~~**Self-Directed Community Supports (SDCS)**. A program option for adults eligible for the Adult DD Waiver. ~~(7-1-26)~~( )

23. Service Coordination. Case management activity to assist participants with gaining and coordinating access to necessary care and services appropriate to their needs. (7-1-26)

24. Service Plan. An initial or annual plan that identifies all services and supports based on a person-centered planning process and authorized by the Department. (7-1-26)

25. Skilled Nursing Care. Level of care for patients requiring twenty-four (24) hour skilled nursing services. (7-1-26)

26. Supervision. Supervision of a provider is ~~P~~procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. ~~(7-1-26)~~( )

27. Support and Spending Plan (SSP). A document that functions as a participant's plan of care when the participant is eligible for and has chosen a CDCS option. This document identifies the goods, services, and supports selected by a participant, including those available outside of Medicaid-funded services that can help the participant meet desired goals, and the cost of each one. The participant uses this document to manage their individualized budget. (7-1-26)

28. Support Broker (SB). An individual who advocates on behalf of the participant and who is hired by the participant to provide SB services. (7-1-26)

29. Supports. Services ~~provided for a participant, or a person who provides a support service~~ that provide supervision and assistance to a participant or facilitate integration into the community. A support service for CDCS may be a paid service provided by a CSW, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. ~~(7-1-26)~~( )

30. Third Party. Includes a person, institution, corporation, or public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a participant. (7-1-26)

31. Traditional Adult DD Waiver Services. A program option for participants eligible for the Adult DD Waiver consisting of specific Medicaid Enhanced Plan Benefits. (7-1-26)

32. Traditional Children's HCBS State Plan Option Services. A program option for children eligible for the Children's HCBS State Plan Option consisting of specific Medicaid Enhanced Plan Benefits. (7-1-26)

33. Utilization Control (UC). Program of prepayment screening and annual review by the Department determining the appropriateness of and the need for continued medical entitlement of applicants or participants in a NF. (7-1-26)

34. Utilization Control Team (UCT). Team of Regional nurse reviewers that conducts on-site reviews of the care and services in NFs approved by the Department as Medicaid providers. (7-1-26)

35. Vocational Services. Services directly related to the preparation for paid or unpaid employment. Vocational services are provided with the expectation a participant will participate in a work services program or the general workforce within a year. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

022. PROVIDER AGREEMENTS.
This section applies to all providers ~~including Family Directed Community Supports (FDCS)~~. ~~(7-1-26)~~( )

01. General. All individuals or entities must enter into a written provider agreement accepted by the Department prior to receipt of any reimbursement for services. Agreements may contain any terms or conditions deemed appropriate by the Department. All provider agreements must be signed by an authorized representative who has the legal authority to bind the provider in the agreement. (7-1-26)

02. Enforcement Actions and Terminations. The Department may take any of the following actions for cause based on the conduct of the provider, or its employees or agents, or when the provider fails to comply with the provider agreement, or any applicable state or federal regulation: (7-1-26)

a. Require corrective actions in IDAPA 16.05.07; (7-1-26)

b. Require a corrective action plan to be submitted by the provider to address noncompliance with requirements; (7-1-26)

c. Reduce, limit, or suspend payment of claims pending the submission, acceptance, or completion of a corrective action plan; (7-1-26)

d. Revoke the provider's gold card status; ( )

~~d~~e. Limit or suspend provision of services to participants who have not previously established services with the provider pending the submission, acceptance, or completion of a corrective action plan; or (7-1-26)

~~e~~f. Terminate the provider's agreement. (7-1-26)

i. The Department may terminate provider agreements with or without cause by giving written notice to the provider as set forth in the agreement. (7-1-26)

ii. Terminations without cause may result from elimination or change of programs or requirements, or the provider's inability to continue providing services due to the actions of another agency or board. Terminations without cause are not subject to contested case proceedings since the action will either affect a class of providers or will result from the discretionary act of another regulatory body. If an agreement does not provide a notice period, the period is twenty-eight (28) days. (7-1-26)

iii. Terminations for cause may be appealed. (7-1-26)

03. Crossover Only Providers. Providers of professional services may enroll as crossover only providers that bill for ~~dual~~ eligible participants' with Medicare coinsurance and deductible. Crossover only providers act as non-billing ORPs for all other participants. ~~(7-1-26)~~( )

04. Non-billing Ordering, Referring, and Prescribing (ORP). Providers may enroll as non-billing ORPs, provided they follow the provider application process and sign a provider agreement. Non-billing ORPs are not eligible for reimbursement and are otherwise not Medicaid providers. (7-1-26)

023. – 024. (RESERVED)

025. CONDITIONS FOR PAYMENT.

01. Participant Eligibility. The Department will reimburse providers for medically necessary services when a complete and properly submitted claim for payment has been received and each of the following conditions are met: (7-1-26)

a. The participant received services no earlier than the third month before an application was made on the participant's behalf; (7-1-26)

b. The provider verified the participant's eligibility on the date of service and can provide proof of the eligibility verification; (7-1-26)

c. Services provided after the participant's date of death cannot be reimbursed; and (7-1-26)

d. Not more than twelve (12) months have elapsed since the latest participant services for which such payment is being made. Medicare cross-over claims are excluded from the twelve (12) month submittal limitation. When a participant is determined to be retroactively eligible, the Department will reimburse providers for services within the period of retroactive eligibility, if a claim is submitted within twelve (12) months of the participant's eligibility determination. ~~(7-1-26)~~( )

02. Comply With All Applicable Regulations. (7-1-26)

03. Comply With the Idaho Medicaid Provider Handbook. (7-1-26)

04. Acceptance of State Payment. Providers agree to accept as payment in full the amounts paid by the Department for covered services. Participants cannot be billed for covered services. Providers may only bill participants for non-covered services when the participant is notified in writing before the service is provided that it is non-covered and its cost. (7-1-26)

05. Medical Care Provided Outside the State of Idaho. Out-of-state medical care is subject to the same utilization review and other Medicaid coverage requirements and restrictions as medical care received within the state of Idaho. (7-1-26)

06. Ordering, Referring, and Prescribing Providers (ORP). Any service ordered, prescribed, or referred by a provider who is not an enrolled Medicaid provider will not be reimbursed by the Department. (7-1-26)

07. Referrals. Medicaid services may require a referral. Services requiring a referral are listed in the Idaho Medicaid Provider Handbook. Services provided without a required referral~~,~~ are not covered and are subject to sanctions and recoupment. ~~(7-1-26)~~( )

08. Prior Authorization (PA). The Department may require a PA for any service. Unless otherwise specified: (7-1-26)

a. Medicaid payment will be denied for the medical item or service or portions thereof that were provided prior to the submission of a valid PA request. An exception may be allowed on a case-by-case basis, when events beyond the provider's control prevented the request's submission. (7-1-26)

b. The provider cannot bill the Medicaid participant for non-covered services solely because the authorization was not requested or obtained in a timely manner. (7-1-26)

c. An item or service will be deemed prior approved when the participant was not eligible for Medicaid when the service was provided, but was subsequently determined eligible under Medicaid eligibility rules, and the medical item or service provided is authorized by the Department. (7-1-26)

d. A Notice of Decision approving or denying a requested item will be issued to the participant by the Department. The participant has twenty-eight (28) days from the date of the denial to request a fair hearing on the decision. (7-1-26)

09. Follow-up Communication. Medicaid services may require timely follow-up communication with the participant's PCP provider as listed in the Idaho Medicaid Provider Handbook. Services provided without timely communication are not covered and subject to sanctions and recoupment. (7-1-26)

026. THIRD-PARTY LIABILITY.

01. Determining Liability. The Department will take reasonable measures to determine liability of third parties for services rendered to a participant. (7-1-26)

02. Current Resource. The Department will treat any third-party liability as a current resource when payment by the third-party has been made or will be made within a reasonable time. (7-1-26)

03. Withholding Payment. The Department will not withhold payment because of the liability of a third party when liability cannot be currently established or available to pay the participant's medical expense. (7-1-26)

04. Seeking Third-Party Reimbursement. The Department will seek reimbursement from a third party when liability existed, but was not treated as a current resource, with the exceptions provided under this rule. The Department will seek reimbursement from a participant in any situation in which the participant ~~has~~ receive~~d~~s direct payment from any third~~-~~ party for services received and does not forward~~ed~~ the money to the Department ~~for~~

~~services received~~. ~~(7-1-26)~~( )

05. Billing Third Parties First. Medicaid providers must bill all other sources of direct third-party payment~~, with the following exceptions:~~ except when allowed by state or federal regulation. ~~(7-1-26)~~( )

~~**a.** When the resource is a court-ordered absent parent and there are no other viable resources available, the claims will be reimbursed, and the resources billed by the Department; (7-1-26)~~

~~**b.** Preventive pediatric care including early and periodic screening, diagnostic, and treatment services which includes: (7-1-26)~~

~~i. Well Child examinations for children under age twenty-one (21) years when provided according to guidance in the Idaho Medicaid Provider Handbook; (7-1-26)~~

~~ii. Diagnosis services to identify the nature of an illness or other problem by examination of the symptoms. (7-1-26)~~

~~**c.** When PA has been approved under these rules, treatment services to control, correct, or ameliorate health problems found through diagnosis and screenings; (7-1-26)~~

~~**d.** If the claim is for preventative pediatric care under this rule, the Department will make payment for the service provided in its fee schedule and will seek reimbursement from the third party under 42 U.S.C. 1396a(a)(25)(E). (7-1-26)~~

06. Accident Determination. When the participant's Medicaid card indicates private insurance or when the diagnosis indicates an accident for which private insurance is often carried, the claim will be suspended or denied until third party liability determination can occur. (7-1-26)

07. Third-Party Payments. The Department will pay the provider the lowest amount of the following: (7-1-26)

a. The provider's actual charge for the service; (7-1-26)

b. The maximum allowable charge for the service as established by the Department in its pricing file; or (7-1-26)

c. The third-party allowed amount minus the third-party payment, or the patient liability as indicated by the third-party. (7-1-26)

08. Subrogation of Third-Party Liability. In all cases where the Department will be required to pay for a participant who is entitled to recover any medical expenses from any third party, the Department will be subrogated to the rights of the participant to the extent of the amount of Medicaid benefits paid by the Department. (7-1-26)

a. If litigation or a settlement in such a claim is pursued by the Medicaid participant, the participant must notify the Department. (7-1-26)

b. If the participant recovers funds from a third party, the participant must repay the amount of benefits paid by the Department. (7-1-26)

09. Subrogation of Legal Fees. (7-1-26)

a. If a participant incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the Department is subrogated, the amount which the Department is entitled to recover, or any lesser amount which the Department may agree to accept, will be reduced by the total amount of attorney fees and court costs paid by the participant. (7-1-26)

b. If a settlement or judgment is received by the participant that does not specify which portion is for payment of medical expenses, it will be presumed that the settlement or judgment applies first to the medical expenses in an amount equal to that paid by the Department. (7-1-26)

027. – 029. (RESERVED)

030. GENERAL PAYMENT PROCEDURES.

01. Provided Services. (7-1-26)

a. Providers must obtain the required information from the Electronic Verification System (EVS) by using the Medicaid number on the identification card from the EVS and transfer the required information onto the appropriate claim form. (7-1-26)

b. Upon providing the care and services to a participant, the provider or their agent must submit a properly completed claim to the Department including their usual and customary charge, which is the lowest charge by the provider to the general public for the same service including advertised specials. Each claim submitted by a provider constitutes an agreement to accept and abide by the Department's requirements. (7-1-26)

c. The Department is to process each claim received and make payment directly to the provider. (7-1-26)

d. The Department will not supply claim forms. Form examples needed to comply with the Department's unique billing requirements are included in the Idaho Medicaid Provider Handbook. (7-1-26)

02. Provider Reimbursement. (7-1-26)

a. Except where specified, ~~T~~the Department will pay the provider the lowest of: ~~(7-1-26)~~( )

i. The provider's~~ actual~~ charge for service;~~ or~~ ~~(7-1-26)~~( )

ii. The maximum allowable~~ charge for the service~~ as established by the Department on its pricing file ~~and~~ or Idaho Medicaid Provider Handbook;~~ or~~ ~~(7-1-26)~~( )

iii. The Medicaid-allowed amount minus the~~ Medicare~~ primary's payment;~~ or the Medicare co-insurance and deductible amounts added together when a participant has both Medicare and Medicaid.~~(7-1-26)( )

iv. All-patient refined diagnosis related group (APR-DRG); or ( )

v. Member responsibility. ( )

b. Services and items without a Medicare price on file are priced for the maximum allowable charge at the Department's discretion per the following: (7-1-26)

i. Historical cost or regional reimbursement data. (7-1-26)

ii. Percent of charge. (7-1-26)

iii. A copy of the manufacturer's suggested retail pricing (MSRP) or an invoice or quote from the manufacturer or wholesaler. Reimbursement will be seventy-five percent (75%) of MSRP or quote. If the pricing documentation is an invoice for items, reimbursement will be at cost plus ten percent (10%), plus shipping. (7-1-26)

vi. An invoice with the usual and customary charges of the provider, and documentation in the form of operation reports, chart notes or medical records. (7-1-26)

v. HCBS are priced in accordance with approved service criteria. (7-1-26)

03. Services Normally Billed Directly to the Patient. If a provider bills services directly to patients, the provider must submit a claim form to the Department for reimbursement. (7-1-26)

04. Other Noninstitutional Services. The Department will reimburse for noninstitutional services unless otherwise specified. (7-1-26)

05. Cost Reporting. Providers subject to filing a Medicaid cost report must use the Department designated reporting forms, unless the Department approves an exception. Requests to use alternate forms must be sent to the Department in writing, with samples attached, ninety (90) days prior to the report due date. Requests are not a reason for late filing. (7-1-26)

06. For Providers Subject to Retrospective Cost Settlement. Following receipt of a finalized Medicare cost report and timely receipt of other requested information to fairly cost settle with a provider, the Department sends a certified letter with return receipt requested to the provider setting forth the underpayment or overpayment amounts made to the provider. The notice of results of a final retroactive adjustment ~~are~~ is sent even when a provider intends to appeal or has appealed the Medicare Intermediary's determination of cost settlement. When the determination shows that a provider owes Medicaid because total interim and other payments exceeded cost limits, the state takes the necessary action to recover overpayments, including suspending interim payments sixty (60) days after the provider receives the notice. Recovery or suspension actions continue even after the state receives a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments are made to the settlement amount. ~~(7-1-26)~~( )

a. The Department makes every effort to issue a notice of program reimbursement within twelve (12) months of receiving a cost report. (7-1-26)

b. A Medicaid completed cost settlement may be reopened by a provider or the state within a three (3) year period from the date of the notice of program reimbursement. The issues must have been raised, appealed, and resolved by reopening the Medicare Intermediary's cost report. Issues previously addressed and resolved by the state's appeal process are not cause to reopen a finalized cost settlement. (7-1-26)

07. Procedures for Medicare Cross-Over Claims. (7-1-26)

a. If a Medicaid participant is eligible for Medicare, the provider must first bill Medicare, or its designee, for the services before billing the Department. ~~(7-1-26)~~( )

b. If a provider accepts a Medicare assignment, the Department will forward payment to the provider automatically based upon the Medicare Summary Notice (MSN) that is received from the Medicare Part B Carrier. (7-1-26)

c. If a provider does not accept a Medicare assignment, an MSN must be submitted with a claim to the Department. (7-1-26)

d. For all other services, an MSN must be submitted to the Department with a claim. (7-1-26)

e. The Department will pay the provider for ~~the~~ services up to the Medicaid allowable amount minus the Medicare payment or the Medicare co-insurance and deductible amounts added together. ~~(7-1-26)~~( )

08. Appeals Process. Reimbursement for services originally denied by the Department will be made if such decision is reversed by the appeals process. (7-1-26)

031. HANDLING OF OVERPAYMENTS AND UNDERPAYMENTS FOR SPECIFIED PROVIDERS.
This section of rule applies only to providers that are retrospectively cost settled. (7-1-26)

01. Interest Charges. Medicaid charges interest on overpayments, and pays interest on underpayments, as follows: (7-1-26)

a. If full repayment from an indebted party is not received within sixty (60) days after the provider

received the Department reimbursement notice, interest accrues from the receipt date and is charged on any unpaid settlement balance for each thirty (30)-day period of delayed payment. Periods of less than thirty (30) days are treated as a full thirty (30)-day period, and the full interest charge is applied to any unpaid balance. Each payment is applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not allowable interest expenses. (7-1-26)

b. When the Department determines an overpayment exists, it may waive interest charges if the administrative costs to collect exceeds the charges. ~~(7-1-26)~~( )

c. The interest rate on overpayments and underpayments is compounded monthly. (7-1-26)

d. Balance and interest are retroactively adjusted to equal the amounts that would have been due based on any changes that occurred due to results of a final determination in an administrative or judicial appeals process. Interest penalties only apply to unpaid amounts and are subordinated to final interest determinations made in a judicial review process. (7-1-26)

02. Recovery Methods. One (1) of the following will be used for recovery of overpayments: (7-1-26)

a. Upon receiving a notice of program reimbursement, a provider voluntarily refunds, in a lump sum, the entire overpayment to the Department. (7-1-26)

b. The provider may: (7-1-26)

i. Request in writing to make overpayment recovery over a period of twelve (12) months or less; and (7-1-26)

ii. Submit documentation demonstrating that their financial integrity would be irreparably compromised if repayments occurred over a shorter time period. (7-1-26)

c. If a provider does not respond to the program reimbursement notice within thirty (30) days of receipt, the Department initiates recovery of the entire unpaid balance in addition to accrued interest. (7-1-26)

032. – 034. (RESERVED)

035. RECORDS.
Providers must maintain records in sufficient detail to allow the Department to audit for compliance, medical necessity, quality assurance, and determination of payment methodology. The Department, and the U.S. Department of Health and Human Services, and the Bureau of Compliance have the right to review and copy pertinent records of providers and related entities receiving Medicaid reimbursement. These reviews may be conducted for audit purposes outside of processes in IDAPA 16.05.07. ~~(7-1-26)~~( )

01. Provider Refusal. Refusal of a provider to permit the Department to review records pertinent to Medicaid will constitute grounds for: (7-1-26)

a. Withholding payments until access to the requested information is granted; (7-1-26)

b. Recoupment of payments; or ~~(7-1-26)~~( )

c. Suspending the provider.; ~~(7-1-26)~~( )

d. Revoke the provider's gold card status; ( )

e. Exclusion from the Medicaid program; and/or ( )

f. Termination from the Medicaid program. ( )

02. Undocumented Services. Undocumented services are subject to recoupment. (7-1-26)

03. Availability of Records. Records must be available for audit, with or without prior notice, during any working day and regular business hours at the provider's principal place of business. (7-1-26)

04. Retention of Records. Providers will retain records required under this rule for a period of five (5) years from the date of final payment under the provider agreement. Failure to retain records for the required period can void the Department's obligation to pay for services. (7-1-26)

036. – 039. (RESERVED)

**GENERAL REIMBURSEMENT PROVISIONS FOR INSTITUTIONAL PROVIDERS
(Sections 040-049)**

040. DOCUMENTATION FOR AUDITS.

01. Expenditure Documentation. Must include the amount, date, purpose, payee, and the invoice or other verifiable evidence supporting an expenditure. (7-1-26)

02. Cost Allocation Process. Include depreciation or amortization of assets and indirect expenses allocated to activities or functions based on the original identity of the costs. Documentation to support basis for allocation must be available for verification. The assets referred to in this Section of rule are economic resources of the provider recognized and measured in conformity with GAAP. (7-1-26)

03. Revenue Documentation. Must include the amount, date, purpose, and source of revenue. (7-1-26)

04. Additional Documentation. (7-1-26)

a. Providers are given an opportunity to provide documentation before a~~n interim~~ final audit report is issued. ~~(7-1-26)~~( )

b. Providers are not allowed to submit additional documentation in support of cost items after issuance of the ~~interim~~ final audit report. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

050. NF AND ICF/IID REIMBURSEMENT.

01. Reasonable Cost Principles. To be allowable, costs must be reasonable, ordinary, necessary, and related to patient care. Providers are expected to incur costs in such a manner that economical and efficient delivery of quality health care to participants results. (7-1-26)

02. Application of Reasonable Cost Principles. Reasonable costs of any services are determined under this rule and the PRM, as modified by exceptions contained herein, and used to identify cost items included on Idaho's Uniform Cost Report. (7-1-26)

a. Reasonable costs account for both direct and indirect costs of provider services, including normal standby costs. (7-1-26)

b. Costs may vary from one (1) facility to another due to a variety of factors. Medicaid intends to reimburse providers for the actual operating costs of providing high quality care, unless such costs exceed the applicable maximum base rate developed under provisions of Title 56, Idaho Code, or unallowable by application of promulgated regulation. (7-1-26)

c. The expectation of reasonable actual operating costs is that providers seek to minimize costs and

that actual operating costs do not exceed what a prudent and cost-conscious buyer pays for a given item or service. (7-1-26)

d. The Department does not pay for costs determined to exceed a level that buyers incur in the absence of clear evidence that higher costs were unavoidable. (7-1-26)

e. Form and substance of transactions prevails over the form. Financial transactions are disallowed to the extent that the substance of a transaction fails to meet reasonable cost principles or comply with rules and policy. (7-1-26)

03. Home Office Cost Principles. Reasonable cost principles extend to home office costs allocated to individual providers. In addition, the home office, through a provider, provides documentation on the basis used to allocate costs among the various entities it administers or directs. (7-1-26)

04. Application of Related Party Transactions. (7-1-26)

~~**a.** Charges to a provider from related organizations may not exceed the billing to a related organization for these services.~~ ~~(7-1-26)~~

~~**b**~~**a.** All home office costs unrelated to patient care are not allowable. (7-1-26)

05. Compensation to Relatives. Payment for relatives of owners or administrators is allowed only for actual services performed, when necessary, adequately documented, and reasonable. ~~(7-1-26)~~

~~**a.**~~ Compensation billed to the Department must be included in compensation reported for tax purposes and actually paid. ~~(7-1-26)~~( )

~~i. When services are performed without pay, no cost may be reported.~~ ~~(7-1-26)~~

~~ii. Time records documenting actual hours worked are required for compensation to allow for reimbursement.~~ ~~(7-1-26)~~

~~iii. Compensation for undocumented work hours is not reimbursable.~~ ~~(7-1-26)~~

~~**b.** Related persons are defined as these relationships with a provider:~~ ~~(7-1-26)~~

~~i. Spouse;~~ ~~(7-1-26)~~

~~ii. Child or a descendant of a child;~~ ~~(7-1-26)~~

~~iii. Siblings, stepsiblings, or descendant thereof;~~ ~~(7-1-26)~~

~~iv. Parent, stepparent, siblings thereof, and their ancestors;~~ ~~(7-1-26)~~

~~v. Related by marriage;~~ ~~(7-1-26)~~

~~vi. Any other person without an arm's length relationship.~~ ~~(7-1-26)~~

06. Idaho Owner-Administrative Compensation. Allowable compensation to owners and related persons providing any administrative services is based on bed count and limited to a set amount adjusted annually based upon changes in average hourly earnings in nursing and personal care facilities as published by a nationally recognized forecasting firm. (7-1-26)

a. Allowable compensation for providing administrative services is determined by: (7-1-26)

i. All licensed beds in every facility administrative services are provided. (7-1-26)

ii. More than fifty (50) beds being restricted to an upper limit for compensation based on bed count. (7-1-26)

iii. Less than fifty-one (51) beds being reimbursed at an allowable hourly rate. Non-administrative services are allowable at the reasonable market rate. Hours for each service type is documented. In no event will the total compensation for administrative and non-administrative duties exceed the limit applicable for the same amount for providing administrative services to facilities with fifty-one (51) or more beds. (7-1-26)

~~**b.** Compensation for persons related to an owner is evaluated in the same manner as for an owner. (7-1-26)~~

~~e~~**b.** When ~~an owner provides~~ services are provided to more than one facility, compensation is distributed on the same basis as costs allocated for non-owners. ~~(7-1-26)~~( )

~~d~~**c.** For more than one (1) ~~owner or related~~ party to receive compensation, services must be actually performed, documented, and necessary. Total compensation must be reasonable, and no greater than an amount for which the same services could be obtained on the open market. Standard full-time compensation is measured as two thousand eighty (2,080) hours. Compensation ~~of an owner or relative of an owner~~ will not exceed ~~the compensation determined from~~ the Administrative Compensation Schedule, and, when paid on an hourly basis, will not exceed ~~compensation determined~~ by the Administrative Compensation Schedule divided by two thousand eighty (2,080.) ~~(7-1-26)~~( )

07. Filing Dates. (7-1-26)

a. Deadlines for annual cost reports are the last day of the third month following a fiscal year end or the deadline imposed by Medicare for providers required to file Medicare cost reports. (7-1-26)

b. Waivers to delay filing by thirty (30) days may be granted for annual cost reports in unusual circumstances. Requests for waivers and reasons must be submitted prior to the deadline. A written decision is rendered within ten (10) days. (7-1-26)

08. Failure to File. Late reports result in reductions to the interim rate. Failure to file required cost reports, including required supplemental information, unless a waiver is granted, results in a reduction of ten percent (10%) of the provider's rate(s) the first day of the month following a deadline date. Continued failure to comply results in complete payment suspension on the first day of the following month. When suspension or reduction occurs and a provider filed the required cost reports, amounts accruing to the provider during a suspension or reduction period are restored. Loss of license or certification results in immediate termination of reimbursement, full scope audit, and settlement for the cost period. (7-1-26)

09. Accounting System. Providers must file reports using the accrual basis and conform with GAAP or within provisions of the specified guidelines. Recorded transactions must be capable of verification by Departmental audit. (7-1-26)

10. Audits. (7-1-26)

a. All financial reports are subject to audit to: (7-1-26)

i. Determine that transactions recorded in the books of record are substantially accurate and reliable as a basis to determine reasonable costs. (7-1-26)

ii. Determine that facility internal controls are sufficiently reliable to disclose the results of a provider's operations. (7-1-26)

iii. Determine that Medicaid participants received the required care based on economy and efficiency. (7-1-26)

iv. Determine that GAAP is applied on a consistent basis in conformance with applicable federal and

state regulations. (7-1-26)

v. Ensure policies and practices sufficiently meet fiduciary responsibilities for patients, funds, and property. (7-1-26)

vi. Effect final settlement when required. (7-1-26)

b. Normally, all annual statements are audited within the following year. (7-1-26)

c. Other statements and some annual audit recommendations are subject to limited scope audits evaluating provider compliance. (7-1-26)

d. Additional audits are required for: (7-1-26)

i. Significant changes of ownership. (7-1-26)

ii. Changes in management. (7-1-26)

iii. When an overpayment of twenty-five percent (25%) or more resulted in a completed cost period. (7-1-26)

e. Annual field audits are by appointment. Auditors identify themselves with a letter of authorization or Department I.D. cards. (7-1-26)

11. Audit Standards and Requirements. (7-1-26)

a. Before making any program payments to a prospective provider, the intermediary reviews a provider's accounting system and its capability of generating accurate statistical cost data. When a provider's record keeping capability fails to meet program requirements, the intermediary offers limited consultative services or suggests revisions of a provider's system to enable compliance. (7-1-26)

b. Examination of records and documents includes: (7-1-26)

i. Corporate charters or other ownership documents including those for parent or related companies and attachments describing property. (7-1-26)

ii. Minutes and memos of governing bodies, including committees and its agents. (7-1-26)

iii. All contracts. (7-1-26)

iv. Tax returns and records, including workpapers and other supporting documentation. (7-1-26)

v. All insurance contracts and policies including riders and attachments. (7-1-26)

vi. Leases. (7-1-26)

vii. Fixed asset records ~~(see Capitalization of Assets)~~. ~~(7-1-26)~~( )

viii. Schedules of patient charges. (7-1-26)

ix. Notes, bonds, and other evidence of liabilities. (7-1-26)

x. Capital expenditure records. (7-1-26)

xi. Bank statements, canceled checks, deposit slips, and bank reconciliations. (7-1-26)

xii. Evidence of litigations involving a facility or its owners. (7-1-26)

xiii. All invoices, statements, and claims. (7-1-26)

xiv. Financial audit work–papers prepared by any accounting firm a provider engages with are considered the provider's property and must be available to the intermediary upon request, under PRM, Subparagraph 2404.4(Q). ~~(7-1-26)~~( )

xv. Ledgers, journals, all working papers, subsidiary ledgers, records, and documents relating to financial operation. (7-1-26)

xvi. All patient records, including trust funds and property. (7-1-26)

xvii. Time studies and other cost determining information. (7-1-26)

xviii. All other sources of information needed to form an audit opinion. (7-1-26)

c. Adequate cost information developed by a provider must be current, accurate, and sufficient detail to support payments made for services rendered. This includes all ledgers, books, records, and original cost evidence including purchase requisitions, purchase orders, vouchers, requisitions for material, inventories, time cards, payrolls, bases for apportioning costs, and other documentation pertaining to determination of reasonable cost, capable of being audited under PRM, Section 2304. ~~(7-1-26)~~( )

d. Adequate expense documentation includes invoices or statements with invoices attached supporting the statement and must include: (7-1-26)

i. Service or sale date; (7-1-26)

ii. Terms and discounts; (7-1-26)

iii. Quantity; (7-1-26)

iv. Price; (7-1-26)

v. Vendor name and address; (7-1-26)

vi. Delivery address if applicable; (7-1-26)

vii. Contract or agreement references; and (7-1-26)

viii. Description including quantities, sizes, specifications, and brand names of services performed. (7-1-26)

e. Minor movable equipment is not capitalized. The cost of fixed assets and major movable equipment is capitalized and depreciated over the estimated useful life of an asset under PRM, Section 108.1. This rule applies except for the provisions of PRM, Section 106 for small tools. (7-1-26)

f. Completed depreciation records must include the following for each asset: (7-1-26)

i. Description of the asset including serial number, make, model, accessories, and location. (7-1-26)

ii. Cost basis supported by invoices for purchase, installation, etc. (7-1-26)

iii. Estimated useful life. (7-1-26)

iv. Depreciation method (straight line, double declining balance, etc.). (7-1-26)

v. Salvage value. (7-1-26)

vi. Method of recording depreciation consistent with GAAP. (7-1-26)

vii. Additional information, such as additional first year depreciation, even when not an allowable expense. (7-1-26)

viii. Reported depreciation expense for the year and accumulated depreciation tied to the asset ledger. (7-1-26)

g. Depreciation methods are always acceptable. Methods of accelerated depreciation are only acceptable upon authorization by the Office of Audit or its successor organization. Additional first year depreciation is not allowable. (7-1-26)

h. An asset's depreciable life may not be shorter than the useful life stated in the publication, Estimated Useful Lives of Depreciable Hospital Assets, Guidelines. Deviation from these guidelines is allowable only upon Department authorization. (7-1-26)

i. Lease purchase agreements are generally recognized by ~~any~~ the following characteristics: ~~(7-1-26)~~( )

i. Lessee assumes normal ownership costs, such as taxes, maintenance, etc.; (7-1-26)

ii. Intent to create security interest; (7-1-26)

iii. Lessee acquires title by exercising a purchase option that requires little or no additional payment or, additional payments substantially less than the fair market value at purchase date; (7-1-26)

iv. Non-cancelable or cancelable only upon occurrence of a remote contingency; ~~and~~ or ~~(7-1-26)~~( )

v. Initial loan term significantly less than the useful life and lessee has the option to renew at a rental price substantially less than fair rental value. (7-1-26)

j. Assets acquired under such agreements are viewed as contractual purchases and treated accordingly. Normal costs of ownership such as depreciation, taxes, and maintenance are allowable. Rental or lease payments are not reimbursable. (7-1-26)

k. Complete personnel records including: (7-1-26)

i. Employment applications. (7-1-26)

ii. W-4 Forms. (7-1-26)

iii. Authorizations for any deductions such as insurance, credit union, etc. (7-1-26)

iv. Routine evaluations. (7-1-26)

v. Pay raise authorizations. (7-1-26)

vi. Statements of understanding of policies, procedures, etc. (7-1-26)

vii. Fidelity bond applications (when applicable). (7-1-26)

l. A system of internal control intended to provide a method of handling all routine and nonroutine tasks related to: (7-1-26)

i. Safeguarding assets and resources against waste, fraud, and inefficiency. (7-1-26)

ii. Promoting accuracy and reliability in financial records. (7-1-26)

iii. Encouraging and measuring compliance with company policy and legal requirements. (7-1-26)

iv. Determining the degree of efficiency related to various aspects of operations. (7-1-26)

m. An adequate system of internal control over cash disbursements including: (7-1-26)

i. Payment on invoices only, or statements supported by invoices. (7-1-26)

ii. Authorizations for purchase; a purchase order. (7-1-26)

iii. Verification of quantity received, description, terms, price, conditions, specifications, etc. (7-1-26)

iv. Verification of freight charges, discounts, credit memos, allowances, and returns. (7-1-26)

v. Check of invoice accuracy. (7-1-26)

vi. Invoice approval policy. (7-1-26)

vii. Method of invoice cancellation to prevent duplicating payment. (7-1-26)

viii. Adequate separation of duties between ordering, recording, and paying. (7-1-26)

ix. System separation of duties between ordering, recording, and paying. (7-1-26)

x. Signature policy. (7-1-26)

xi. Pre-numbered checks. (7-1-26)

xii. Statement of policy regarding cash or check expenditures. (7-1-26)

xiii. Adequate internal control over recording transactions in the books of record. (7-1-26)

xiv. An imprest system for petty cash. (7-1-26)

n. Sound accounting practices including: (7-1-26)

i. Documentation of accounting policies and procedures, including capitalization, depreciation, and expenditure classification criteria. (7-1-26)

ii. Chart of accounts. (7-1-26)

iii. Budget or operating plans. (7-1-26)

12. Patient Funds. The safekeeping of Medicaid patient funds is the responsibility of the provider. Administration of these funds requires scrupulous care when recording all patient transactions. (7-1-26)

a. Funds provided for a patient’s personal needs are used at the patient's discretion. Providers agree to manage these funds and render an accounting of funds but may not use them in any way. (7-1-26)

b. Providers are subject to legal and financial liabilities for committing any of the following acts and any other acts contrary to federal regulations: (7-1-26)

i. Management fees are not charged to manage patient trust funds and constitute double payment as normally performed by a facility employee whose salary is included in reasonable cost reimbursement. (7-1-26)

ii. Nothing is to be deducted from these funds, unless deductions are authorized by the patient or their agent in writing. (7-1-26)

iii. Interest accruing to patient funds on deposit is the patient's property and part of their personal funds. Interest from these funds is not available to the provider for any use, including patient benefits. (7-1-26)

c. Fund Management. Proper management includes the following at a minimum: (7-1-26)

i. Savings accounts, maintained separately from facility funds. (7-1-26)

ii. An accurate system of supporting receipts and disbursements to patients. (7-1-26)

iii. Written authorization for all deductions. (7-1-26)

iv. Signature verification. (7-1-26)

v. Deposit of all receipts on the same day received. (7-1-26)

vi. Minimal funds kept in a facility. (7-1-26)

vii. All funds must always be locked. (7-1-26)

viii. Policy statement regarding patient's funds and property. (7-1-26)

ix. Periodic review of all policies with staff in training sessions and with all new employees upon employment. (7-1-26)

x. System of periodic review and correction of policies and financial records for patient property and funds. (7-1-26)

13. Legal Consultant Fees and Litigation Costs. When these costs are incurred by a provider, they are handled as follows: (7-1-26)

a. Legal consultant fees unrelated to preparation for or appealing of a Department audit, or costs incurred by a provider in an action unrelated to litigation with the Department are allowed as part of total per diem costs the Medicaid Program reimburses according to the percentage of Medicaid patient days. (7-1-26)

b. Costs of the provider's legal counsel when appealing findings of a Department audit are reimbursed by Medicaid only to the extent a provider prevails on the issues involved. Determination of the extent a provider prevails is based on the ratio of the total dollars at issue for an audit period under appeal to the total dollars ultimately awarded to a provider for that audit period. (7-1-26)

c. All other litigation costs incurred by a provider for actions against the Department are not directly or indirectly reimbursable by Medicaid, unless court ordered. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

054. SPECIALIZED REIMBURSEMENT: ELECTRONIC VISIT VERIFICATION (EVV).

01. Services Requiring EVV. (7-1-26)

a. Home Health. (7-1-26)

b. State Plan PCS provided by a PAA. ~~(7-1-26)~~( )

c. Attendant Care, Homemaker and Respite under the A&D Waiver provided by a PAA. ~~(7-1-26)~~( )

02. EVV Requirements. Providers must: (7-1-26)

a. Select and maintain an EVV system and certified as compliant with the Department's MMIS aggregator; (7-1-26)

b. Retain documented participant consent for the provider's EVV methods; (7-1-26)

c. Develop and maintain policies and procedures for use of EVV technology, including strategies for safeguarding participant data and privacy; and (7-1-26)

d. Submit EVV data capturing six (6) system-validated data elements for services rendered: (7-1-26)

i. Service date; (7-1-26)

ii. Service start and end times; (7-1-26)

iii. Direct service provider; (7-1-26)

iv. Recipient of service; (7-1-26)

v. Billable service; and (7-1-26)

vi. Service delivery location. (7-1-26)

e. Submit EVV data to the State's aggregator prior to billing claims. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

060. SERVICES, TREATMENTS, AND PROCEDURES NOT COVERED BY MEDICAID.

01. Service Categories Not Covered. The following service categories are not covered for payment by Medicaid except as otherwise specified: (7-1-26)

a. Acupuncture services; (7-1-26)

b. Naturopathic services; (7-1-26)

c. Bio-feedback therapy, unless used for urinary incontinence; ~~(7-1-26)~~( )

~~**d.** Group hydrotherapy;~~ ~~(7-1-26)~~

~~e~~d. Fertility-related services, including testing; (7-1-26)

~~f~~c. Vocational services except for supported employment services; (7-1-26)

~~g~~f. Educational services; (7-1-26)

~~h~~g. Recreational services; (7-1-26)

~~i~~h. Duplicative services; (7-1-26)

~~j~~i. Housing ~~except when approved for a medical institution~~; and ~~(7-1-26)~~( )

~~k~~j. Food, except when medically necessary ~~or the home-delivered meals benefit~~. ~~(7-1-26)~~( )

02. Types of Treatments and Procedures Not Covered. The costs of provider and hospital services for the following types of treatments and procedures are not covered for payment by Medicaid: (7-1-26)

a. Elective medical and surgical treatment, except for family planning services, without Departmental approval. Procedures that are generally accepted by the medical community and are medically necessary may not require prior approval and may be eligible for payment; (7-1-26)

b. Services for convenience, comfort, or cosmetic reasons except when allowed elsewhere in rule. Hospice services, and reconstructive surgery that has prior approval by the Department are covered benefits; (7-1-26)

~~c. Laetrile therapy;~~ ~~(7-1-26)~~

~~d~~c. New procedures of unproven value and established procedures of questionable current usefulness as identified by the Public Health Service and that are excluded by the Medicare program or major commercial carriers; (7-1-26)

~~e~~d. Drugs supplied to patients for self-administration other than those allowed under these rules; (7-1-26)

~~f~~e. The treatment of complications, consequences, or repair of any medical procedure where the original procedure was not covered by Medicaid, unless the resultant condition is life-threatening as determined by the Department; (7-1-26)

~~g~~f. Medical transportation costs incurred for travel to medical facilities for the purpose of receiving a noncovered medical service; (7-1-26)

~~h~~g. Surgical procedures on the cornea for myopia; or (7-1-26)

~~i~~h. Services as detailed in Section 56-273, Idaho Code. (7-1-26)

03. Experimental Treatments or Procedures. Experimental treatments and procedures, and the costs for all follow-up medical treatment directly associated with such a procedure are not covered. Treatments and procedures are deemed experimental under the following circumstances: (7-1-26)

a. The treatment or procedure is in Phase I clinical trials; (7-1-26)

b. There is inadequate available clinical data to provide a reasonable expectation that the trial treatment or procedure will be at least as effective as non-investigational therapy; or (7-1-26)

c. Expert opinion suggests that additional information is needed to assess the safety or efficacy of the proposed treatment or procedure. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

074. HOSPITAL SERVICES: PROVIDER REIMBURSEMENT.
The upper payment limits observed by the Department in reimbursing each individual hospital must not exceed the payment that would be determined as a reasonable cost under the policies, definitions and procedures observed under Medicare principles of cost reimbursement. (7-1-26)

01. Payment Procedures. The following procedures are applicable to in-patient hospitals: (7-1-26)

a. The participant's admission and length of stay may be subject concurrent review, continued stay

review, and retrospective review by a Quality Improvement Organization (QIO) designated by the Department. QIO review will be governed by provisions of the QIO Idaho Medicaid Provider Manual as amended. Failure to obtain a timely QIO review as required by these rules, and as outlined in the QIO Idaho Medicaid Provider Manual as amended, will result in the QIO conducting a late review. (7-1-26)

b. In reimbursing hospitals, the Department will pay the lesser of customary hospital charges or Medicaid reimbursement for in-patient hospital care as set forth in this rule, unless an exception applies. The upper limits for payment must not exceed the payment that would be determined as reasonable cost using Medicare standards and principles. (7-1-26)

02. Administratively Necessary Days (AND) Reimbursement Rate. Reimbursement for an AND will be made at the weighted average Medicaid payment rate for all Idaho NFs for routine services, as defined per 42 CFR 447.280(a)(1), furnished during the previous calendar year. (7-1-26)

a. The AND reimbursement rate will be calculated by the Department of each calendar year and made effective retroactively for dates of service on or after January 1 of the respective calendar year. (7-1-26)

b. Hospitals with an attached NF will be reimbursed the lesser of their Medicaid per diem routine rate or the established average rate for an AND; and (7-1-26)

c. The Department will pay the lesser of the established AND rate or a facility's customary hospital charge to private pay patients for an AND. (7-1-26)

03. Hospital Swing-Bed Reimbursement. The Department will pay for NF care in certain rural hospitals for participants in licensed hospital swing-beds who require NF level of care. (7-1-26)

a. Routine services include all medical care, supplies, and services that are included in the calculation of NF property and non-property costs as described in these rules. Reimbursement of ancillary services will be determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except prescription drugs will be reimbursed under these rules. (7-1-26)

b. The Department will reimburse hospitals for participants under the following conditions: (7-1-26)

i. The participant is determined to be entitled to such services in accordance with IDAPA 16.03.05; and (7-1-26)

ii. The participant is authorized for payment of long-term care. (7-1-26)

c. The Department will reimburse swing-bed hospitals on a per diem basis utilizing a rate established as follows: (7-1-26)

i. Payment rates for routine NF services will be at the weighted average Medicaid rate per patient day paid to hospital-based NF for routine services furnished during the previous calendar year. (7-1-26)

ii. The rate will be calculated by the Department of each calendar year. The rate will be based on the previous calendar year and effective retroactively for dates of service on or after January 1 of the respective year. (7-1-26)

iii. The weighted average rate for NF swing-bed days will be calculated by dividing total payments for routine services, including patient contribution amounts but excluding miscellaneous financial transactions relating to prior years, by total patient days for each respective level of care occurring in the previous calendar year. (7-1-26)

iv. Routine services include all medical care, supplies, and services that are included in the calculation of NF property and nonproperty costs. (7-1-26)

v. Reimbursement of ancillary services not included in the NF rates furnished for extended care services will be billed and determined in the same manner as hospital outpatient reasonable costs in accordance with

Medicare reasonable cost principles, except that reimbursement for prescription drugs under these rules. (7-1-26)

vi. The Department may authorize additional critical access hospital swing-bed days for participants residing in a community without a nursing facility within thirty-five (35) miles. ( )

04. Adjustment for Disproportionate Share Hospitals (DSH). All Idaho hospitals serving a disproportionate share of low-income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment. The Department will send each hospital a DSH survey on or before January 31 of each calendar year. A hospital will not receive a DSH payment if the survey is not returned by the deadline, unless good cause is determined by the Department. (7-1-26)

a. Mandatory Eligibility for DSH status will be provided for hospitals that: (7-1-26)

i. Meet or exceed the disproportionate share threshold under these rules. (7-1-26)

ii. Have at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services. (7-1-26)

(1) This subsection does not apply to a hospital in which the inpatients are predominantly individuals under eighteen (18) years of age; or (7-1-26)

(2) Does not offer nonemergency inpatient obstetric services. (7-1-26)

iii. The MUR will not be less than one percent (1%). (7-1-26)

iv. If an Idaho hospital exceeds both disproportionate share thresholds and other mandatory eligibility is met, the payment adjustment will be the greater amount calculated using the methods of this rule except when less than one and one-half (1 1/2) standard deviations above the mean of all Idaho hospitals. (7-1-26)

v. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one (1) standard deviation and less than one and one-half (1 1/2) standard deviations above the mean of all Idaho hospitals will receive a DSH payment equal to two percent (2%) of the payments related to the Medicaid inpatient days included in the MUR computation. (7-1-26)

vi. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates: (7-1-26)

(1) Equal to or exceeding one and one-half (1 1/2) standard deviations and less than two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (7-1-26)

(2) Exceeding two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (7-1-26)

vii. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to or exceeding: (7-1-26)

(1) Twenty-five percent (25%) will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (7-1-26)

(2) Thirty percent (30%) will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (7-1-26)

b. All hospitals in Idaho that have inpatient utilization rates of at least one percent (1%) only in Idaho inpatient days and meet the requirements unrelated to patient day utilization specified in this subsection will be designated a DSH Hospital. The disproportionate share payment to a Deemed DSH hospital will be the greater of:

(7-1-26)

i. Five dollars ($5) per Idaho Medicaid inpatient day included in the hospital's MUR computation; or (7-1-26)

ii. An amount per Medicaid inpatient day used in the hospital's MUR computation that equals the DSH allotment amount, less the Mandatory DSH payment amount, divided by the number of Medicaid inpatient days used in the MUR computation for all Idaho DSH hospitals. (7-1-26)

c. When the DSH allotment amount is insufficient to make the aggregate amount of DSH payments to each DSH hospital, payments to each hospital will be reduced by the percentage by which the DSH allotment amount was exceeded. (7-1-26)

d. A DSH payment will not exceed the costs incurred during the year of furnishing services to individuals who are either eligible for medical assistance under the State Plan or were uninsured for health care services provided during the year. (7-1-26)

i. Payments made to a hospital for services provided to indigent patients by a state or a unit of local government within a state will not be considered a source of third-party payment. (7-1-26)

ii. Claims of uninsured costs that increase the maximum amount that a hospital may receive as a DSH payment must be documented. (7-1-26)

e. DSH Will be Calculated on an Annual Basis. A change in a provider's allowable costs as a result of a reopening or appeal will not result in the recomputation of the provider's annual DSH payment. (7-1-26)

f. To the extent that audit findings demonstrate that DSH payments exceed the documented hospital specific cost limits, the Department will collect overpayments and redistribute DSH payments. (7-1-26)

i. If at any time during an audit the Department discovers evidence suggesting fraud or abuse by a provider, that evidence, in addition to the Department’s final audit report regarding that provider, will be referred to the Medicaid Fraud Unit of the Idaho Attorney General’s Office. (7-1-26)

ii. The Department will submit an independent certified audit to CMS for each completed Medicaid State plan rate year, consistent with 42 CFR Part 455, Subpart D, “Independent Certified Audit of State Disproportionate Share Hospital Payment Adjustments.” (7-1-26)

iii. If based on the audit of the DSH allotment distribution, the Department determines that there was an overpayment to a provider, the Department will immediately: (7-1-26)

(1) Recover the overpayment from the provider; and (7-1-26)

(2) Redistribute the amount in overpayment to providers that had not exceeded the hospital-specific upper payment limit during the period in which the DSH payments were determined. The payments will be subject to hospital-specific upper payment limits. (7-1-26)

iv. Disproportionate share payments must not exceed the DSH state allotment, except as otherwise required by the SSA. In no event is the Department obligated to use State Medicaid funds to pay more than the State Medicaid percentage of DSH payments due a provider. (7-1-26)

05. Out-of-State Hospitals. Hospitals will have a cost settlement computed with the state of Idaho if the following conditions are met: (7-1-26)

a. Total inpatient and outpatient covered charges are more than fifty thousand dollars ($50,000) in the fiscal year; or (7-1-26)

b. When less than fifty thousand dollars ($50,000) of covered charges are billed to the state by the

provider, and a probable significant underpayment or overpayment is identifiable, and the amount makes it administratively economical and efficient for cost settlement to be requested by either the provider or the state, a cost settlement will be made between the hospital and the Department. (7-1-26)

06. Audit Function. Under a common audit agreement, the Medicare Intermediary may perform any audit required for both Medicare and Medicaid purposes. The Department may elect to perform an audit even though the Medicare Intermediary does not choose to audit the facility. (7-1-26)

07. Adequacy of Cost Information. Cost information as developed by the provider must be current, accurate, and in sufficient detail and in such form as needed to support payments made for services rendered to participants. This includes all ledgers, books, reports, records and original evidences of cost (purchase requisitions, purchase orders, vouchers, requisitions for materials, inventories, labor time cards, payrolls, bases for apportioning costs, etc.), which pertain to the determination of reasonable costs, leaving an audit trail capable of being audited. Financial and statistical records will be maintained in a consistent manner from one (1) settlement period to another. ~~(7-1-26)~~( )

08. Interim Cost Settlements. The Department may initiate, or a hospital may request an interim cost settlement based on the Medicare cost report as submitted, for hospitals subject to cost settlement. (7-1-26)

a. Interim settlement cost report data will be adjusted to reflect Medicaid payments and statistical summary reports sent to providers before the filing deadline. (7-1-26)

b. The Department may limit a recovery or payment of an interim settlement amount up to twenty-five percent (25%) of the total settlement amount when the cost report information is in dispute. (7-1-26)

09. Non-Appealable Items. The formula for the determination of the hospital inflation index, the principles of reimbursement that define allowable cost, non-Medicaid program issues, interim rates that follow state and federal rules, and the preliminary adjustments prior to final cost settlement determinations as supported by properly completed cost reports and audits are not acceptable as appealable items. (7-1-26)

10. Interim Reimbursement Rates for Providers Subject to Cost Settlement. The interim reimbursement rates must be reasonable and adequate to meet the necessary costs that are incurred by economically and efficiently operated providers that provide services in conformity with applicable state and federal laws, rules, and quality and safety standards. (7-1-26)

a. Interim rates will be adjusted at least annually based on the best information available to the Department. (7-1-26)

b. Interim rates will not be adjusted retrospectively upon request for rate review by the provider. (7-1-26)

c. The Department may make an adjustment based on the Medicare cost report as submitted and accepted by the Intermediary after the provider's reporting year to bring interim payments made during the period into agreement with the tentative reimbursable amount due the provider at final settlement. If the settlement amount is equal to or greater than ten percent (10%) of the payments received or paid and equal to or greater than one hundred thousand dollars ($100,000), the interim rate will be adjusted to account for half (½) of the difference. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

102. CASE MANAGEMENT: COVERAGE AND LIMITATIONS.

01. Home Visiting Coverage. (7-1-26)

a. Assessment for medical, educational, social, or other service needs; (7-1-26)

b. Development and revision of a plan to address goals; (7-1-26)

c. Referral and related activities for necessary services; and (7-1-26)

d. Monitoring of progress. (7-1-26)

~~**e.** Services do not include case management integral to another covered service or that constitutes direct delivery of referred services.~~ ~~(7-1-26)~~

02. Community Re-entry Services. Medicaid will reimburse for targeted case management services for eligible incarcerated participants thirty (30) days prior to, and thirty (30) days after, their release into the community. Services include transitioning back into the community by providing access to behavioral, educational, social, and other services. (7-1-26)

03. Duplication. Services do not include case management integral to another covered service or that constitutes direct delivery of referred services. (7-1-26)

103. ~~(RESERVED)~~

~~104. CASE MANAGEMENT: PROVIDER QUALIFICATIONS AND DUTIES.~~
~~Home visiting services are provided by the Public Health Districts or their designee. Eligible providers are certified in an evidence-based model including either Parents as Teachers, or Nurse-Family Partnership.~~ ~~(7-1-26)~~

~~105.~~ – 109. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

142. LM SERVICES: COVERAGE AND LIMITATIONS.

01. Maternity and Newborn. Antepartum, intrapartum, and postpartum maternity and newborn care are covered. Maternal or newborn services provided after the postpartum period are not covered when provided by a Certified Professional Midwife. (7-1-26)

02. Medication. Covered medication listed in the LM formulary ~~under IDAPA 24.26.01~~. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

184. CHIS: PROVIDER QUALIFICATIONS AND DUTIES.
CHIS are delivered by individuals who meet one (1) of the qualifying criteria below and are employed by a DDA, or who meet the criteria for enrolling as an independent CHIS provider. (7-1-26)

01. Crisis Intervention Technician. Crisis intervention technician is an employee of a DDA that can deliver crisis intervention directly with the eligible participant and meets the qualifications of a community-based supports staff. The technician must be under the supervision of a specialist or professional who is observing and reviewing the direct crisis intervention services performed. Supervision must occur monthly. (7-1-26)

02. Intervention Technician. Intervention technicians can deliver habilitative skill building, behavioral intervention, and crisis intervention. The technician must be an employee of a DDA and be under the supervision of a specialist or professional who is observing and reviewing the services performed. Supervision must occur monthly. As a provisional position status is limited to a single eighteen (18) successive month period. Providers are qualified who are working towards meeting the qualifications and competency requirements for an EBM

paraprofessional, intervention specialist, or higher. (7-1-26)

03. Intervention Specialist. Intervention specialists can deliver all CHIS, complete assessments and implementation plans, and must be under the supervision of a specialist or professional who is observing and reviewing the services performed. Supervision must occur monthly. A specialist who will complete assessments or supervise an individual completing assessments must have a minimum of ten (10) hours of documented training and five (5) hours of supervised experience in completing comprehensive assessments and implementation plans for participants with functional or behavioral needs. Qualifications are as follows: (7-1-26)

a. Hold a Habilitative Intervention Certificate of Completion in Idaho. These providers will be allowed to continue providing services as an intervention specialist if there is not a gap of more than three (3) successive years of employment as an intervention specialist; or (7-1-26)

b. Hold a bachelor's degree from an accredited institution in a human services field or a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field; and (7-1-26)

i. Can demonstrate one thousand forty (1,040) hours of supervised experience working with participants birth to twenty-one (21) years of age who demonstrate functional or behavioral needs; and (7-1-26)

ii. Meets the competency requirements by completing one (1) of the following: (7-1-26)

(1) A Department-approved competency checklist; or (7-1-26)

(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training. (7-1-26)

04. Intervention Professional. Intervention professionals can deliver all CHIS and complete assessments and implementation plans. Qualifications are as follows: (7-1-26)

a. Hold a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline and have a minimum of twenty-four (24) upper-division semester credits from an accredited college or university of relevant coursework in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, psychology, education, or behavior analysis ~~which may be documented within the individual's degree program, other coursework, or training~~; and ~~(7-1-26)~~( )

b. Have one thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training. (7-1-26)

05. Evidence-Based Model (EBM) Intervention Paraprofessional. EBM intervention paraprofessionals can deliver habilitative skill building, crisis intervention, and behavioral intervention, and must be supervised in accordance with the EBM. Providers must hold a para-level certification or credential in an EBM approved by the Department. (7-1-26)

06. Evidence-Based Model (EBM) Intervention Specialist. EBM intervention specialists can deliver all CHIS and complete assessments and implementation plans. Specialists must be supervised according to the EBM and may supervise EBM paraprofessionals working within the same EBM. Providers must hold a bachelor-level certification or credential in an EBM approved by the Department. (7-1-26)

07. Evidence-Based Model (EBM) Intervention Professional. EBM intervention professionals can deliver all CHIS and complete assessments and implementation plans. Providers must hold a masters-level degree and certification or credential in an EBM approved by the Department. (7-1-26)

08. Independent CHIS Provider. Independent CHIS Providers can deliver all types of CHIS, complete assessments and implementation plans according to their provider qualification as Intervention Specialists, Intervention Professionals, EBM Intervention Specialists, and EBM Intervention Professionals. Documentation of supervision must be maintained in accordance with the Department's record retention requirements. The following

must be met: (7-1-26)

a. Obtain an independent Medicaid provider agreement through the Department and maintain in good standing; (7-1-26)

b. Be certified in CPR and first aid prior to delivering services and maintain current certification thereafter; (7-1-26)

c. Follow all applicable requirements in the CHIS sections; and (7-1-26)

d. Not receive supervision from an individual that they are directly supervising. (7-1-26)

09. Continuing Training Requirements. CHIS providers must complete a minimum of twelve (12) hours of training each calendar year, including one (1) hour of ethics and six (6) hours of behavior methodology or evidence-based intervention. Continuing training requirements for new independent providers or employees of a DDA who have not provided CHIS for a full calendar year, may be prorated. (7-1-26)

10. ~~Intervention Specialists~~Children Birth to Three Years of Age. Individuals acting as an intervention specialist or professional and who provide services to children birth to three (3) years of age must also demonstrate a minimum of two hundred forty (240) hours of professionally supervised experience providing assessment or evaluation, curriculum development, and service provision in the areas of communication, cognition, motor, adaptive (self-help), and social-emotional development with infants and toddlers birth to five (5) years of age with developmental delays or disabilities. Individuals must have one (1) of the following: ~~(7-1-26)~~( )

a. An elementary education certificate or special education certificate with an endorsement in early childhood special education; or (7-1-26)

b. A blended Early Childhood or Early Childhood Special Education (EC or ECSE) certificate; or (7-1-26)

c. This individual must have a minimum of twenty-four (24) semester credits from an accredited college or university, which can be within their bachelor's or master's degree coursework or can be in addition to the degree coursework. Courses must cover the following: (7-1-26)

i. Promotion of development and learning for children from birth to five (5) years of age. (7-1-26)

ii. Assessment and observation methods that are developmentally appropriate assessment of young children with developmental delays or disabilities; (7-1-26)

iii. Building family and community relationships to support early interventions; (7-1-26)

iv. Development of appropriate curriculum for young children; (7-1-26)

v. Implementation of instructional and developmentally effective approaches for early learning, including strategies for children and their families; and (7-1-26)

vi. Demonstration of knowledge of policies and procedures in special education and early intervention and demonstration of knowledge of exceptionalities in children's development. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

192. PREVENTIVE HEALTH ASSISTANCE (PHA): COVERAGE AND LIMITATIONS.

01. Point System. The PHA benefit uses a point system to track points earned and used by a participant. Each point equals one (1) dollar. (7-1-26)

a. Maximum Benefit Points. (7-1-26)

i. The maximum number of points for a Behavioral PHA is two hundred (200) each benefit year. (7-1-26)

ii. The maximum number of points for the Wellness PHA benefit is one hundred twenty (120) each benefit year. (7-1-26)

b. Points expire at the end of the participant's benefit year. (7-1-26)

c. Points cannot be transferred to, or combined with, points in another participant's PHA benefit. (7-1-26)

02. Weight Management Program. Each program must provide weight management services with at least one (1) of the following: (7-1-26)

a. Physical fitness; (7-1-26)

b. Balanced diet; or (7-1-26)

c. Personal health education. (7-1-26)

03. Premiums. Wellness PHA benefit points are only used to offset a participant's premiums to maintain eligibility ~~under IDAPA 16.03.01~~, if applicable. Only ten (10) points may be applied per month. ~~(7-1-26)~~( )

193. PREVENTIVE HEALTH ASSISTANCE (PHA): PROCEDURAL REQUIREMENTS.

01. Behavioral PHA. A participant must complete a PHA Benefit Agreement Form to earn two hundred (200) points. (7-1-26)

02. Wellness PHA. Each participant must demonstrate that they have received recommended wellness visits and immunizations for their age prior to earning any points. Ten (10) points can be earned each month by ~~for~~ receiving all recommended wellness visits and immunizations for their age during the benefit year. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

211. PRESCRIPTION DRUGS: PARTICIPANT ELIGIBILITY.
All participants are eligible for prescription drug coverage. Medicaid will also pay for Medicaid-covered drugs for participants with Medicare that are not covered by Medicare Part D~~. for dual eligibles.~~; subject to the same limits and processes used for other Medicaid participants. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

252. THERAPY SERVICES: COVERAGE AND LIMITATIONS.
Therapy services are covered under these rules when delivered by a therapy professional and provided by one (1) of the following providers: outpatient hospitals, outpatient rehabilitation facilities, comprehensive outpatient rehabilitative facilities, NFs, school-based services, independent practitioners, and home health agencies. (7-1-26)

01. Therapy Services. Services described in the Idaho Medicaid Provider Handbook are covered with the following limitations: (7-1-26)

a. Any evaluation or re-evaluation may only be performed by the therapist. Any changes in the participant's condition not consistent with planned progress or treatment goals necessitate a documented re-evaluation by the therapist before further treatment is carried out. (7-1-26)

b. The therapist may be reimbursed for the technical component of muscle testing, joint range of motion, electromyography, or nerve velocity determinations as described in the CPT Manual when ordered by a provider. (7-1-26)

c. The services of therapy assistants used when providing covered benefits are included as part of the reimbursed service. These services are billed by the supervising therapist. Therapy assistants may not provide evaluation services. The therapist has full responsibility for the service provided. (7-1-26)

02. Non-Covered Therapy Services. (7-1-26)

a. Continuing services for participants who do not exhibit the capability to achieve measurable improvement or meet the criteria for a maintenance program. (7-1-26)

b. Services for developmentally acceptable error patterns. (7-1-26)

c. Services that do not require the skills of a therapy professional. (7-1-26)

d. Massage, work hardening, and conditioning. (7-1-26)

e. ~~Biofeedback, unless provided to treat urinary incontinence~~Group hydrotherapy. ~~(7-1-26)~~( )

03. Service Limitations. (7-1-26)

a. Therapy provided through school-based services, or the Idaho Infant Toddler Program is not included in the service limitations under this subsection. (7-1-26)

b. Maintenance therapy is covered when an individualized assessment demonstrates that skilled care is required to carry out a safe and effective maintenance program. (7-1-26)

253. THERAPY SERVICES: PROCEDURAL REQUIREMENTS.
~~The Department will pay for therapy services rendered by a therapy professional if such services are ordered by a provider as part of a plan of care.~~ ~~(7-1-26)~~

01. Orders. Services must be ordered by a qualified provider. Home health services have their own order requirements. ~~(7-1-26)~~( )

~~**a.** Services must be reordered at least every ninety (90) days or for individuals with long-term medical conditions, as documented by a provider, at least every three hundred sixty-five (365) days.~~ ~~(7-1-26)~~

~~**b.** Therapy services provided under home health must comply with the order requirements in home health instead.~~ ~~(7-1-26)~~

02. Therapy Plan of Care. All therapy services must be provided under a therapy plan of care that is based on an evaluation and is established prior to beginning treatment. (7-1-26)

a. The plan of care must be signed by the person who established the plan and sent to the ordering provider within thirty (30) days of the evaluation to continue therapy services. (7-1-26)

b. The plan of care must be consistent with the therapy evaluation and contain: (7-1-26)

i. Diagnoses; (7-1-26)

ii. Treatment goals that are measurable and pertain to the identified functional impairment(s); and

(7-1-26)

iii. Type, frequency, and duration of therapy services. (7-1-26)

c. Therapy services provided under home health must comply with the home health plan of care requirements. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

262. AUDIOLOGY SERVICES: COVERAGE AND LIMITATIONS.
All participants are eligible to receive diagnostic screening services necessary to obtain a differential diagnosis. Participants under the age of twenty-one (21) are eligible for routine audiometric examination and testing once per calendar year, and audiometric services and supplies as follows: (7-1-26)

01. Non-Implantable Hearing Aids. Coverage includes~~,~~ batteries purchased monthly, follow-up testing, necessary repairs not covered by warranty, the refitting of the hearing aid after the first two (2) years, and additional ear molds every six (6) months. ~~(7-1-26)~~( )

02. Implantable Hearing Aids. The Department covers surgically implantable hearing aids when there is a documented hearing loss and non-implantable options have been tried unsuccessfully. (7-1-26)

03. Binaural Hearing Aids. The Department covers binaural hearing aids if documented to the Department's satisfaction, that the participant's ability to learn would be severely restricted. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

272. DMEPOS: COVERAGE AND LIMITATIONS.
The Department will purchase, repair, or rent medically necessary DMEPOS that are suitable for use in any setting in which normal life activities take place. Department standards for medical necessity and coverage limitations are those national standards set by CMS in the CMS/Medicare DME coverage manual. Exceptions are described in the Idaho Medicaid Provider Handbook. (7-1-26)

01. Supply Coverage. The Department will purchase no more than three (3) months of necessary medical supplies in a three (3) month period. (7-1-26)

02. New Equipment. All equipment must be new at the time of purchase, or for capped rentals, at the time of dispensing. (7-1-26)

03. Custom Fitting. All prosthetic and orthotic devices that require fitting must be provided by a qualified provider. (7-1-26)

04. Guaranteed Fit. Prosthetic limbs must be guaranteed to fit properly for three (3) months from the date of service; any modifications, adjustments, or replacements within the three (3) months are included in the cost of purchase. (7-1-26)

05. Modification and Repairs. Modification to existing prosthetic or orthotic equipment is covered. Refitting, repairs, or additional parts are limited to once per calendar year for all prosthetics or orthotics unless documented that a major medical change has occurred to the limb. (7-1-26)

06. Replacement Prosthesis or Orthotic Device. Documentation as the least costly alternative to repairing or modifying the current device is required. No replacement will be allowed within sixty (60) months of the date of purchase except in cases where there is clear documentation that there has been major physical change to the residual limb. (7-1-26)

07. Corsets and Braces. Corsets and canvas braces with plastic or metal bones are not covered. Special braces enabling a participant to ambulate will be covered when a provider documents the only other method of treatment for this condition would be a cast. (7-1-26)

08. Electronically Powered or Enhanced Prosthetic or Orthotics. These items are non-covered. (7-1-26)

09. Shoes and Accessories. Shoes, accessories, and modifications are not covered except when provided for the treatment of diabetes, or when attached to an orthosis or prosthesis, or when used to provide for a totally or partially missing foot. ~~(7-1-26)~~( )

10. Temporary Lower Limb Prosthesis. Covered when documented by the ordering provider that for the participant's rehabilitation, the prosthesis is necessary prior to a permanent limb prosthesis. A new permanent limb prosthesis will only be requested after the residual limb size is considered stable. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

322. SBS: SERVICE-SPECIFIC PARTICIPANT ELIGIBILITY.

01. Skills Building/Community Based Rehabilitation Services (CBRS). To be eligible for Skills Building/CBRS, the student must meet one (1) of the following: (7-1-26)

a. A student under eighteen (18) years of age meeting the Serious Emotional Disturbance (SED) eligibility criteria in the Children's Mental Health Services Act, Section 16-2403(1~~3~~5), Idaho Code. The child must experience a substantial impairment in functioning. The level and type of impairment must be documented in the school record. A Department-approved assessment must be used for an initial functional impairment score. Subsequent scores must be obtained annually to determine changes in functioning ~~as a result of~~ due to mental health treatment. ~~(7-1-26)~~( )

b. A student eighteen (18) years old or older meeting the criteria of Serious and Persistent Mental Illness (SPMI). This requires that a student participant meet the criteria described in 42 CFR 483.102(b)(1), have at least one (1) additional functional impairment, and have a diagnosis under DSM-V, or later edition, with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. In addition, the psychiatric disorder must be of sufficient severity to affect the participant's functional skills negatively, causing a substantial disturbance in role performance or coping skills in at least two (2) of the areas listed below on either a continuous or intermittent basis, at least once per year. The skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The detail of the participant's level and type of functional impairment must be documented in the medical record in the following areas: (7-1-26)

i. Vocational or educational; (7-1-26)

ii. Financial; (7-1-26)

iii. Social relationships or support; (7-1-26)

iv. Family; (7-1-26)

v. Basic living skills; (7-1-26)

vi. Housing; (7-1-26)

vii. Community or legal; or (7-1-26)

viii. Health or medical. (7-1-26)

02. CHIS. Students are eligible to receive CHIS services in accordance with EPSDT, and behavioral consultation of these rules. (7-1-26)

03. Personal Care Services. To be eligible for personal care services (PCS), the student must have a completed children's PCS assessment and allocation tool approved by the Department that finds the student requires PCS due to a medical condition that impairs physical or functional abilities. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

325. SBS: PROVIDER QUALIFICATIONS AND DUTIES.
Qualifications for covered services include licensure and acting within the scope of practice, where applicable. (7-1-26)

01. Behavioral Intervention. Provided by, or under the supervision of, an intervention specialist or professional. Individuals providing behavioral intervention must be one (1) of the following: (7-1-26)

a. Intervention Paraprofessional. Provides direct services. The specialist or professional observes and reviews the direct services performed by the paraprofessional monthly, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An intervention paraprofessional under the direction of a qualified intervention specialist or professional must: (7-1-26)

i. Be at least eighteen (18) years of age; (7-1-26)

ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; (7-1-26)

iii. Meet the paraprofessional requirements under IDAPA 08.02.02. (7-1-26)

b. Intervention Technician. As defined for CHIS services but does not need to be the employee of a DDA. (7-1-26)

c. Intervention Specialist. Provides direct services, completes assessments, and develops implementation plans. Intervention specialists who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following: (7-1-26)

i. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in State Board of Education Policy Section IV.B; (7-1-26)

ii. An individual who holds a Habilitative Intervention Certificate of Completion in Idaho with an expiration date of July 1, 2019, or later, and does not have a gap of more than three (3) years of employment as an intervention specialist; or (7-1-26)

iii. An individual who holds a bachelor's degree from an accredited institution in a human services field or has a bachelor's degree and a minimum of twenty-four (24) semester credits in a human services field, can demonstrate one thousand forty (1,040) hours of supervised experience working with children who demonstrate functional or behavioral needs, and meets the competency requirements by completing one (1) of the following: (7-1-26)

(1) A Department-approved competency checklist referenced in the Idaho Medicaid Provider

Handbook; (7-1-26)

(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training; or (7-1-26)

(3) Other Department-approved competencies as defined in the Idaho Medicaid Provider Handbook. (7-1-26)

d. Intervention Professional. The services and qualifications for this provider type can be met by one (1) of the requirements for a CHIS intervention professional. (7-1-26)

e. Evidence-Based Model (EBM) Intervention Paraprofessional. As defined for CHIS services. (7-1-26)

f. Evidence Based Model (EBM) Intervention Specialist. As defined for CHIS services. (7-1-26)

g. Evidence-Based Model (EBM) Intervention Professional. As defined for CHIS services provides direct services, completes assessments, develops implementation plans, and may supervise EBM intervention paraprofessionals or specialists working within the same evidence-based model in which they are certified or credentialed. (7-1-26)

02. Behavioral Consultation. Must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis psychology, education, or behavior analysis (may be included as part of degree program), and who meets one (1) of the following: (7-1-26)

a. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in State Board of Education Policy Section IV.B; (7-1-26)

b. An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, excluding an RN or audiologist; (7-1-26)

c. An occupational therapist; (7-1-26)

d. An intervention professional; or (7-1-26)

e. An EBM intervention professional. (7-1-26)

03. Crisis Intervention. Must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing crisis intervention must be one (1) of the following: (7-1-26)

a. An intervention paraprofessional; (7-1-26)

b. An intervention technician; (7-1-26)

c. An intervention specialist; (7-1-26)

d. An intervention professional; (7-1-26)

e. An EBM intervention paraprofessional; (7-1-26)

f. An EBM intervention specialist; (7-1-26)

g. An EBM intervention professional; (7-1-26)

h. A licensed physician, ~~licensed practitioner of the healing arts~~ nurse practitioner, clinical nurse

specialist, or physician assistant; ~~(7-1-26)~~( )

i. An RN or advanced practice ~~registered nurse~~ RN; ~~(7-1-26)~~( )

j. A licensed psychologist; (7-1-26)

k. A licensed clinical professional counselor or professional counselor; (7-1-26)

l. A licensed marriage and family therapist; (7-1-26)

m. A licensed Masters social worker, licensed clinical social worker, or licensed social worker; (7-1-26)

n. A psychologist extender; (7-1-26)

~~**o.** An RN;~~ ~~(7-1-26)~~

po. A licensed occupational therapist; or (7-1-26)

qp. An endorsed or certified school psychologist. (7-1-26)

04. Habilitative Skill Building. Must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing habilitative skill building must be one (1) of the following under behavioral intervention: (7-1-26)

a. An intervention paraprofessional, technician, specialist, or professional; or ~~(7-1-26)~~( )

b. An EBM intervention paraprofessional, specialist, or professional~~;~~. ~~(7-1-26)~~( )

~~**c.** An EBM intervention specialist; or~~ ~~(7-1-26)~~

~~**d.** An EBM intervention professional.~~ ~~(7-1-26)~~

05. Interdisciplinary Training. Must be provided by one (1) of the following under behavioral intervention: (7-1-26)

a. An intervention specialist or professional; or ~~(7-1-26)~~( )

~~**b.** An intervention professional;~~ ~~(7-1-26)~~

cb. An EBM intervention specialist or professional~~;~~. ~~(7-1-26)~~( )

~~**d.** An EBM intervention professional.~~ ~~(7-1-26)~~

06. Medical Equipment and Supplies. (7-1-26)

07. Nursing Services. (7-1-26)

08. Occupational Therapy and Evaluation. Therapy rules apply. (7-1-26)

09. Personal Care Services (PCS). Must be provided by or under the direction of an RN. (7-1-26)

a. ~~Providers of~~ PCS ~~must have~~ providers with at least one (1) of the following qualifications: ~~(7-1-26)~~( )

i. Licensed R~~egistered~~ N~~urse (RN)~~. ~~(7-1-26)~~( )

ii. Licensed Practical Nurse (LPN). (7-1-26)

iii. Certified Nursing Assistant (CNA). (7-1-26)

iv. Personal Assistant. A person with training to ensure the quality of services who is at least eighteen (18) years of age. (7-1-26)

b. The RN must review or complete, or both, the PCS assessment and develop or review, or both, the written service plan ~~of care~~ annually. Oversight provided by the RN ~~must~~ includes all of the following: ~~(7-1-26)~~( )

i. Development of the written PCS service plan ~~of care~~; ~~(7-1-26)~~( )

ii. Review of the treatment given by the personal assistant through a review of the student's PCS service detail reports as maintained by the provider; and (7-1-26)

iii. Reevaluation of the service plan ~~of care~~ as necessary, but at least annually. ~~(7-1-26)~~( )

c. The RN must conduct quarterly supervisory visits ~~on a quarterly basis~~, or more frequently as determined by the IEP team and ~~defined as part of~~ identified in the PCS service plan ~~of care~~. ~~(7-1-26)~~( )

10. Physical Therapy and Evaluation. Therapy rules apply. (7-1-26)

11. Psychological Evaluation. (7-1-26)

12. Psychotherapy. (7-1-26)

13. Skills Building/Community-Based Rehabilitation Services (CBRS). Skills Building/CBRS must be provided by one (1) of the following: (7-1-26)

a. Licensed physician, ~~licensed practitioner of the healing arts~~ nurse practitioner, clinical nurse specialists, or physician assistant; ~~(7-1-26)~~( )

b. RN or Advanced practice ~~registered nurse~~ RN; ~~(7-1-26)~~( )

c. Licensed psychologist; (7-1-26)

d. Licensed clinical professional counselor or professional counselor; (7-1-26)

e. Licensed marriage and family therapist; (7-1-26)

f. Licensed master's social worker, licensed clinical social worker, or licensed social worker; (7-1-26)

g. Psychologist extender registered with ~~the Division of Occupational and professional Licenses~~ DOPL; ~~(7-1-26)~~( )

~~**h.** Licensed registered nurse (RN);~~ ~~(7-1-26)~~

~~**i**~~**h.** Licensed occupational therapist; (7-1-26)

~~**j**~~**i.** Endorsed or certified school psychologist; (7-1-26)

~~**k**~~**j.** Skills Building/~~Community Based Rehabilitation Services~~CBRS specialist who ~~must~~ has: ~~(7-1-26)~~( )

i. ~~Be an individual who has a~~A bachelor's degree or higher and is under the supervision of a licensed

behavioral health professional, a physician, nurse, or an endorsed or certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision of the specialist monthly to review treatment provided to student participants on an ongoing basis. Supervision can be conducted using synchronous virtual care when it is equally effective as direct on-site supervision; and ~~(7-1-26)~~( )

ii. ~~Have a~~A credential required for CBRS specialists. ~~(7-1-26)~~( )

14. Speech/Audiological Therapy. Therapy rules apply. (7-1-26)

15. Social History and Evaluation. (7-1-26)

16. Transportation. Must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. (7-1-26)

17. Therapy Paraprofessionals. The schools may use paraprofessionals to provide occupational therapy, physical therapy, and speech therapy. The portions of the treatment plan delegated to the paraprofessional must be identified in the IEP or transitional IFSP. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

340. NEMT SERVICES: DEFINITIONS.

01. Contracted Transportation Provider. A provider who is under contract with the Department's transportation broker to provide NEMT for participants. ~~(7-1-26)~~( )

02. NEMT. NEMT is transportation that is: (7-1-26)

a. Not of an emergency nature; and (7-1-26)

b. Required for a Medicaid participant to access services covered by Medicaid when the participant's own transportation resources, family transportation resources, or community transportation resources do not allow the participant to reach those services. (7-1-26)

03. Transportation Broker. An entity under contract with the Department to administer, coordinate, and manage a statewide network of NEMT providers. (7-1-26)

04. Travel-Related Services. Travel-related services are meals, lodging, and attendant care required for NEMT to be completed for a Medicaid participant. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

354. EPSDT SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Interperiodic and periodic medical screens must be performed by a physician, NP, or Physician~~s~~ Assistant.
~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

461. PDN: PARTICIPANT ELIGIBILITY.
A child's nursing needs are such that the Idaho Nursing Practice Act, Rules, Regulations, or policy require services be provided by an RN or LPN and require more individual and continuous care unavailable from Home Health nursing services. PDN is authorized by the Department prior to service delivery. Annual redetermination is required.

(7-1-26)

01. Provider Ordered. (7-1-26)

a. An attending provider determines the medical status is so complex or unstable that a licensed or professional nursing assessment is needed to determine changes in medications or other interventions; or (7-1-26)( )

b. A determination of total PDN hours needed to ensure a child's health and safety in their home. (7-1-26)

02. RN Assessment. Identifying a child's health status for unstable chronic conditions including an evaluation of the child's responses to interventions or medications. (7-1-26)

03. Service Plan. (7-1-26)

a. Developed by a multi-disciplinary team including the parent or legal guardian, the primary RN, or RN Supervisor, and a Department representative; (7-1-26)

b. Includes all medically necessary aspects of the medical and licensed services (including PCS) to be performed (amount, type, and frequency of service) ordered by the physician; (7-1-26)

c. Approved and signed by an attending provider, parent or legal guardian, the primary RN or RN supervisor, and a Department representative; and (7-1-26)

d. Revised at least annually and updated as a child's needs change or upon significant change of condition, submitted to the Department for review and PA of service. (7-1-26)

04. Status Updates. Must be completed every ninety (90) days from the start of services. Annual plan reviews replace fourth quarter Status Updates. Status Updates must be signed by both the parent or legal guardian and the RN supervisor completing the form. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

473. NF: COVERAGE AND LIMITATIONS.
NFs must provide regular, health-related care and services to participants who require additional care and services due to a mental or physical condition above room, board, and supervision alone. (7-1-26)

01. Minimum Coverage. Minimum services and supplies include: (7-1-26)

a. Room and board; (7-1-26)

b. Bed and bathroom linens; (7-1-26)

c. Nursing care, including special feeding if needed; (7-1-26)

d. Personal services; (7-1-26)

e. Supervision when required by the patient's condition; (7-1-26)

f. Special diets prescribed by a ~~physician~~ provider; (7-1-26)( )

g. All common over-the counter medicine chest supplies; (7-1-26)

~~**h.** Dressings. Applications using prescription medications or aseptic techniques must be completed by~~

~~an RN;~~ ~~(7-1-26)~~

~~i~~h. Administration of intravenous, subcutaneous, or intramuscular injections and infusions, enemas, catheters, bladder irrigations, and oxygen; (7-1-26)

~~j~~i. Application or administration of all drugs; (7-1-26)

~~k~~j. All common disposable medical supplies; (7-1-26)

~~l~~k. Social and recreational activities; and (7-1-26)

~~m~~l. Any reusable item commonly needed by patients expected to be available in a NF, such as bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other DME. (7-1-26)

02. Skilled Services. (7-1-26)

a. Overall development, management, and evaluation of a resident's service plan, based on a physician's orders, when a patient's physical or mental condition or aggregate PCS tasks require technical or professional staff to meet their needs, promote recovery, and assure medical safety. (7-1-26)

b. Ongoing assessment of rehabilitation needs concurrent with the management of a resident's service plan, including tests and measurements of range of motion, strength, balance, coordination, endurance, functional ability, ADLs, perceptual deficits, and speech, language, or hearing disorders. (7-1-26)

c. Professional observation and assessment of a resident's changing condition required to identify and evaluate whether treatment modification or additional medical procedures to stabilize a condition are needed. (7-1-26)

03. Limitations. (7-1-26)

a. Services requiring skilled nursing staff include: (7-1-26)

i. Intravenous injections or feedings and intramuscular or subcutaneous injections required on more than one (1) shift; (7-1-26)

ii. Nasopharyngeal feedings and aspiration; (7-1-26)

iii. Tracheotomy aspiration; (7-1-26)

iv. Catheter insertion, sterile irrigation, and replacement; (7-1-26)

v. Treating extensive decubitus ulcers or other widespread skin disorders; (7-1-26)

vi. Heat treatments specifically ordered by a ~~physician~~ provider as part of treatment and requiring nurse observation to adequately evaluate a resident's progress; and ~~(7-1-26)~~( )

vii. Initial phases of a regimen involving oxygen administration. (7-1-26)

b. Services requiring physical or occupational therapists include: (7-1-26)

i. Therapeutic exercises or activities must be performed by or under supervision to ensure resident safety and treatment effectiveness; (7-1-26)

ii. Gait evaluation and training to restore function in a resident whose ability to walk is impaired by neurological, muscular, or skeletal abnormality; (7-1-26)

iii. Ultrasound, short-wave, and microwave therapy treatments; and (7-1-26)

iv. Other treatment and modalities including hot pack, hydroculator, infrared treatments, paraffin baths, and whirlpool for residents with circulatory deficiency, desensitization, open wounds, fractures, or other complications. (7-1-26)

04. Date of Discharge. The day a participant is released is not a day of care. ( )

474. NF: PROCEDURAL RESPONSIBILITIES.
Each NF administrator, or their authorized representative, must report the following information to the Department within three (3) working days of the date a NF is aware of: ~~(7-1-26)~~( )

01. Change of Status. Any participant readmission, discharge, or any temporary absence due to hospitalization or therapeutic home visit. (7-1-26)

02. Changes of Resident's Income. (7-1-26)

03. Amount Exceeded. When a resident's account exceeds one thousand eight hundred dollars ($1,800) for single participants, or two thousand eight hundred dollars ($2,800) for married couples. (7-1-26)

04. Other Patient Financial Information. Other information about a resident's finances that potentially affects eligibility for Medicaid. (7-1-26)

475. PREADMISSION SCREENING AND RESIDENT REVIEW PROGRAM (PASRR).
NFs must assure that all screens are obtained and coordinated with the Department, independent mental illness (MI) evaluators, the State Mental Health Authority (SMHA) and State Intellectual Disabilities or Developmental Disabilities Authority (SDDA), and designees. (7-1-26)

01. Level I Screening. All required Level I screens and level of care reviews are completed and submitted to the Department prior to NF admission. (7-1-26)

02. Level II Screening. When a NF identifies an individual with MI or DD (typically through a Level I screen), they must contact the SMHA or SDDA (as appropriate), and to complete a Level II screen prior to admission, or for existing residents, to continue residing in the NF. (7-1-26)

03. Change in Status. Resident reviews for residents with MI or DD must occur and a new determination made after any significant change in their physical or mental condition renders them incapable of responding to program interventions. NFs must notify the Department of any changes within ~~two~~ fourteen (~~2~~14) ~~working~~ days of occurrence when any significant change requires new or increased specialized services. ~~(7-1-26)~~( )

04. Exceptions to PASRR. The NF bears the burden of documenting that applicable criteria are met. No exception under this section eliminates Section 475.03 requirements. ( )

a. Level II screening is not required when: ( )

i. Admission is directly from a hospital after acute inpatient care; ( )

ii. Services are for the same condition treated in the hospital; and ( )

iii. The attending physician certifies prior to admission that care is likely needed for fewer than thirty (30) days. ( )

b. If more than thirty (30) days of care are necessary, the NF must submit the Level I screen and level of care review to the Department and the SMHA or SDDA must complete the Level II screening within forty (40) calendar days of admission. ( )

c. A PASRR is not required for readmission directly from a hospital the participant was transferred to

for care. An annual resident review is still required. ( )

d. Screening is not required when the participant transfers from another NF. Instead, the transferring NF provides copies of the most recent PASRR and resident assessment. An annual resident review is still required. ( )

e. The SMHA or SDDA can make advance categorical determinations that NF services are necessary when: ( )

i. Short-term recuperative care following acute physical illness requiring hospitalization is necessary, and the admission does not qualify as an exempted hospital discharge under 475.04.a. A Level II Screening must be initiated before day one hundred twenty (120) if continued NF care is required. ( )

ii. Admission is for palliative or end-of-life care and the participant is eligible for hospice services. ( )

iii. The attending physician documents a participant's physical condition precludes meaningful participation in a Level II evaluation at admission. A Level II assessment is necessary within forty (40) calendar days of admission or when the individual's condition permits, whichever is earlier. ( )

iv. Delirium at admission prevents accurate MI or DD diagnosis. A Level II assessment must be initiated within fourteen (14) days of admission. ( )

v. Delay for preadmission screening would jeopardize the individual's health or safety. The NF must notify the Department within twenty-four (24) hours of admission. A Level II is necessary within seven (7) calendar days of admission if the Level I screen is positive for MI or DD. ( )

05. Reimbursement During Exempted or Delayed Level II Admissions. Medicaid reimbursement is available from the date of admission when all applicable criteria and documentation requirements are met under Subsections 475.04.a. through 04.e. Where a Level II evaluation is delayed under Subsections 475.04.e.iii, iv., or v., reimbursement is available only through the day before the assessment deadline, and then after the assessment is completed. For admissions under Subsection 475.04.a., if NF care extends beyond thirty (30) days without a timely resident review, reimbursement is not available for days of care furnished before the resident review is completed. ( )

(BREAK IN CONTINUITY OF SECTIONS)

486. NF: DISTRESSED FACILITY.

01. Department Determination. NFs in an under-served area, or addressing an under-served need, may receive an alternative rate. (7-1-26)

02. Discretionary Factors. A NF is not guaranteed increased payment. The Department considers factors for a higher rate on a NF-by-NF basis: (7-1-26)

a. Prudent spending patterns and cost allocation as evidenced by a Department review of the NF's accounts. (7-1-26)

b. A NF diligently attempted to cover costs of care, hire qualified staff, and otherwise operate effectively and efficiently, but cannot due to causes beyond the NF's reasonable control. (7-1-26)

c. The same costs of care used to determine special rates are not applied toward a determination of distressed facility status. (7-1-26)

d. The determination of distressed status focuses on whether the NF's distress stems from patient care

costs, and not expenses unrelated to patient care costs. (7-1-26)

e. A NF's payment cannot exceed the lower of its actual costs or customary charge to private-pay patients unless ~~except~~ exempt by federal law. The Department's cost caps can be exceeded through the distressed facility process up to the federal UPL. ~~(7-1-26)~~( )

03. Annual Review. Distressed facility payments are short-term and redetermined for each fiscal year a NF requests a distressed facility rate. (7-1-26)

04. Prospective Application. Only NFs currently distressed or entering a period of distress are eligible. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

488. NF: BEHAVIORAL CARE UNIT (BCU) RATES.

01. Direct Care Costs. Additional direct care costs for BCU residents remain in direct care costs subject to the direct care cost limitation. Qualifying BCU NFs may have a direct care cost limitation higher than non-BCU NFs, and do not receive an increased indirect care cost limitation. ~~(7-1-26)~~( )

02. New Owner. The prior owner's cost report is used for rate calculations until the new owner has a qualifying cost report. The BCU continues to qualify for the same higher direct care cost limit as the previous owner. If the BCU is discontinued, the direct care cost limit is adjusted down to match a non-BCU NF. (7-1-26)

489. NF: BCU QUALIFICATIONS.
~~Facilities must meet the qualifications for a BCU described in the Idaho Medicaid Provider Agreement Additional Terms – Behavioral Care Units.~~ ~~(7-1-26)~~

~~**490. NF: BCU ELIGIBLE DAYS.**~~
NFs adding a BCU must demonstrate BCU days from a minimum of sixty (60) calendar days, regardless of payer source, divided by total census days for that same 60-day period, equals or exceeds a minimum of thirty percent (30%). ~~(7-1-26)~~( )

490. (RESERVED)

491. NF: SPECIAL RATES.
The Department pays NFs an addition to their daily rate when a patient's needs exceed the scope of NF services, and the cost is not adequately reflected in the calculated rates. This rate is in addition to any payments under other provisions and excluded from the computation of payments or rates under other sections of these rules. (7-1-26)

01. Determination. The Department approves special rates per patient based on identified conditions expected to continue for more than thirty (30) days. No rate is allowed if payment for these needs is available from a non-Medicaid source. (7-1-26)

02. Effective Date. Upon approval, a special rate is effective on the date set by the Department. (7-1-26)

03. Reporting. Costs equivalent to payments for special rate add-on amounts are removed from cost components subject to limits and reported separately. (7-1-26)

04. Limitation. Special rates cannot exceed a NF's charges to other patients for similar services. (7-1-26)

05. Prospective Rate Treatment. Special rates are paid under a prospective payment system. (7-1-26)

06. Payment for Qualifying Residents. The Department calculates special rate add-on amounts using one (1) of the following methods: (7-1-26)

a. For NFs operating as a one hundred percent (100%) special care unit including Medicaid residents, the direct care cost per diem is not subject to the direct care cost limit. However, the direct care costs are case mix adjusted based on the ratio of a NF's Medicaid CMI for the rate period to the NF-wide CMI for the cost reporting period. (7-1-26)

b. ~~The Department pays for equipment and non-therapy supplies not addressed in the coverage and limitations section in accordance with DMEPOS, as an add-on amount.~~Weighted Average Hourly Rate (WAHR) rates are calculated using an annual survey of all Idaho NFs and ICFs/IID to establish the WAHR for Idaho NF employees in comparable positions multiplied by a supplemental component composed of costs reported for travel, administration, training, and all payroll taxes and fringe benefits collected during the most recent State Fiscal Year. ~~(7-1-26)~~( )

c. NFs providing care to residents who are ventilator-dependent or receive tracheostomy care are eligible to submit requests for a fixed add-on amount, in addition to the NF's rate for residents receiving this type of care. Approved requests are effective the date a resident needs this care, no earlier than sixty (60) days prior to request receipt. Add-on rates include the cost for equipment and supplies and for additional RN and CNA hours, as appropriate for each care type. Costs for equipment and supplies are adjusted annually for inflation, and skilled nursing costs are adjusted according to annual WAHR survey results. (7-1-26)

i. The Department reviews approved add-on rates for these residents annually to ensure the add-on rate remains necessary for the resident's care needs. (7-1-26)

ii. NFs must inform the Department when an approved add-on rate is no longer needed or a resident's special needs change. (7-1-26)

iii. The hourly add-on rate for staffing in an out-of-state NF equals the current WAHR CNA or RN wage rate plus a benefits allowance based on annual cost report data and weighted to remove CNA minimum daily staffing time adjusted for the appropriate staff skill level. (7-1-26)

07. Treatment of Special Rates In Future Rate Setting Periods. Special rates are established on a prospective basis as with the overall NF rate. When a cost report used to set rates contains a special add-on cost, the Department makes an adjustment to reduce costs by an amount equal to total incremental revenues, or add-on payments received by the NF during the cost reporting period. The amount received is calculated by multiplying the special rate add-on amount paid for each qualifying resident by the number of days paid. No related adjustment is made to the NF's CMIs. (7-1-26)

08. Special Rate for NF Ownership Change or Closure. The Department does not require a closing cost report, and reviews special rates made in the closing cost reporting period. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

502. ICF/IID: COVERAGE AND LIMITATIONS.
The Department pays for services in an ICF/IID whose primary purpose is providing habilitative services and maintaining optimal health status for individuals with intellectual disabilities or related conditions. (7-1-26)

01. Coverage. The minimum content of care and services for ICF/IID residents includes: (7-1-26)

a. Room and board; (7-1-26)

b. Bed and bathroom linens; (7-1-26)

c. Nursing care, including special feeding if needed; (7-1-26)

d. Personal services; (7-1-26)

e. Supervision; (7-1-26)

f. Special diets as prescribed by a participant's provider; (7-1-26)

g. All common medicinal supplies that do not require a prescription; (7-1-26)

h. Dressings; (7-1-26)

i. Administration of intravenous, subcutaneous, or intramuscular injections and infusions, enemas, catheters, bladder irrigations, and oxygen; (7-1-26)

j. Application or administration of all drugs; (7-1-26)

k. All medical supplies; (7-1-26)

l. Social and recreational activities; and (7-1-26)

m. Items used by individuals that are reusable and expected to be available. (7-1-26)

02. Limitations. Specialized wheelchairs and seating systems, including repair, designed to fit the needs of a specific resident and cannot be altered to fit another resident cost effectively are not included in ICF/IID content of care. These are paid directly to the supplier. (7-1-26)

03. Temporary Absence. Reimbursement is available for reserving beds ~~for~~ during a temporary absence, if the facility charges private payors for reserve bed days. Therapeutic home visits are allowed for up to thirty-six (36) days per calendar year when days are part of a written treatment plan ordered by the attending physician. Prior authorization is required for any home visits exceeding fourteen (14) consecutive days. Reimbursement is the lesser of audited allowable costs, or usual and customary charges. ~~(7-1-26)~~( )

503. ICF/IID: PROCEDURAL RESPONSIBILITIES.

01. Reporting Requirements. Each ICF/IID administrator, or their authorized representative, must report to the Department within three (3) working days of the date the facility is aware of the following: (7-1-26)

a. Readmissions or discharges, including any participant's temporary absence due to hospitalization or therapeutic home visit. (7-1-26)

b. Changes to participant's income. (7-1-26)

c. Participant's account exceeds one thousand eight hundred dollars ($1,800) for single individuals or two thousand eight hundred dollars ($2,800) for married couples. (7-1-26)

d. Other changes to participant's finances that may potentially affect their eligibility for Medicaid. (7-1-26)

02. Annual Recertification. ICF/IIDs must assure that participant annual recertifications are completed. (7-1-26)

a. When Medicaid receives a federal financial penalty due to the lack of appropriate recertification on the part of an ICF/IID, then that amount is withheld from facility payments for participants. For audit purposes, these financial losses are not a reimbursable cost of participant care and cannot be billed to the participant. (7-1-26)

b. ICF/IID residents are transitioned to a less restrictive environment~~s~~ within thirty (30) days of a determination when a participant fails to meet ICF/IID level of care. ~~(7-1-26)~~( )

03. Supplemental On-Site Visit. The Department conducts utilization control supplemental on-site visits in an ICF/IID to review these indications to complete follow-up activities, verify a participant's appropriateness of placement or services, and conduct complaint investigations. (7-1-26)

04. Determinations. The Department issues the final decision for eligibility and level of care, including the need for DD or MI active treatment through the Level II screening process. If eligible, the Department forwards authorization for payment to the facility chosen by the individual. The participant can select any certified facility to provide care. No payment is made to any facility for services that are beyond the facility's licensed level of care. (7-1-26)

504. ICF/IID: PROVIDER QUALIFICATIONS AND DUTIES.

01. Direct Care Staffing Levels. ~~A reasonable level of direct care staff provided to an ICF/IID resident is dependent upon the level of involvement and their need for services and supports as determined by the Department. Level of involvement relates to the severity of a resident's intellectual disability. Those levels, in decreasing level of severity, are profound, severe, moderate, and mild.~~ Direct care staffing levels are limited to the following maximum hours per week: ~~(7-1-26)~~( )

a. Sixty-eight and twenty-five hundredths (68.25) hours for a severely and profoundly intellectually disabled resident. (7-1-26)

b. Fifty-four and six tenths (54.6) hours for a moderately intellectually disabled resident. (7-1-26)

c. Thirty-four and one hundred twenty-five thousandths (34.125) hours for a mildly intellectually disabled resident. (7-1-26)

02. Direct Care Staff Hours. The annual sum level of allowable direct care staff hours for each residential living unit is determined in the aggregate as the sum total of the level of staffing allowable for each resident. (7-1-26)

03. Phase-In Period. If these rules require a facility to reduce its direct care staffing, a six (6) month phase-in period is allowed from the date of adjustment, without any resulting disallowances. Should disallowances result, the hourly rate of direct care staff used in determining disallowances is the weighted average of the hourly rates paid to the direct care staff, plus associated benefits, at the end of the phase-in period. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

537. HCBS: CONFLICT OF INTEREST.
Providers must disclose any household or familial relationship between a participant and an owner, partner, officer, director, managing employee, or person with a controlling interest in the agency. The Department may deny or revoke authorization for such arrangements when necessary to prevent conflicts of interest, ensure program integrity, or protect participant choice and health and welfare. ( )

538. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

540. A&D WAIVER SERVICES: DEFINITIONS.

01. A&D Waiver Services. Services for the elderly and physically disabled to maintain self-sufficiency, individuality, independence, dignity, choice, and privacy in a cost-effective home-like or community-based setting. It does not include participants in skilled, or intermediate care facilities, nursing facilities, ICF/IID or

hospitals. When possible, services should be available in the participant's own home and community regardless of their age, income, or ability and should encourage the involvement of natural supports. (7-1-26)

02. Employer of Record. An entity that bills for services, withholds required taxes, and conducts other administrative activities for a waiver participant. Such an entity is also called a PAA functioning as a fiscal intermediary (FI). (7-1-26)

03. Employer of Fact. A participant or representative of a participant who hires, fires, and directs the services delivered by a waiver provider. This individual may be a family member. (7-1-26)

04. Fiscal Intermediary. An entity that provid~~ing~~ges services allowing the participant receiving waiver services, their designee, or legal representative~~,~~ to choose their level of control to recruit, select, manage, train, and dismiss direct care staff regardless of the employer of record, and allows the participant control over their service delivery. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

542. A&D WAIVER SERVICES: COVERAGE AND LIMITATIONS.
Waiver services are provided to prevent institutional placement, provide for the greatest degree of independence possible, enhance quality of life, encourage individual choice, and achieve and maintain community integration. (7-1-26)

01. Adult Day Health. Supervised, structured services provided outside the participant's home in a non-institutional, community-based setting, and encompassing health and social services, recreation, supervision for safety, and assistance with ADL needed to ensure optimal function of the participant. Services do not include room and board payments. (7-1-26)

02. Adult Residential Care. A range of services provided in a homelike, noninstitutional setting that includes licensed Residential Assisted Living Facilities and CFHs. Administrative oversight must be provided for all services provided or available in these settings. Payment does not include room and board. ~~The number of residents in a setting is limited by an amount in the Idaho Medicaid Provider Handbook, unless otherwise authorized by the Department.~~ Services are provided in a congregate setting and include: ~~(7-1-26)~~( )

a. Medication assistance, to the extent permitted under State law; (7-1-26)

b. Assistance with ADL; (7-1-26)

c. Meals, including special diets; (7-1-26)

d. Housekeeping; (7-1-26)

e. Laundry; (7-1-26)

f. Transportation; (7-1-26)

g. Opportunities for socialization for ~~participants in a~~ RALF residents; ~~(7-1-26)~~( )

h. Recreation; and (7-1-26)

i. Assistance with personal finances. (7-1-26)

03. Specialized Medical Equipment and Supplies. (7-1-26)

a. Devices, controls, or appliances enabling a participant to increase their abilities to perform ADL, or to perceive, control, or communicate with the environment in which they live; and (7-1-26)

b. Items necessary for life support, ancillary supplies and equipment necessary for the proper functioning of such items, and DME and non-DME not available under State Plan or EPSDT. (7-1-26)

04. Non-Medical Transportation (NMT). Transportation enabling a participant to access waiver and other community services and resources. Whenever possible, non-paid supports or public transit providers are used. (7-1-26)

05. Attendant Care. Services involving tasks ~~dealing with the~~ related to a participant's functional needs ~~of the participant~~ and accommodating their ~~needs for~~ long-term maintenance, supportive care, or ADL needs. These services include ~~personal assistance~~ PCS and medical tasks ~~that can~~ able to be done by unlicensed persons or delegated to ~~an~~ unlicensed persons by a licensed health care professional or the participant. Services are based on a participant's abilities and limitations, regardless of age, medical diagnosis, or other ~~category of~~ disability. Assistance may be hands-on ~~assistance~~ or prompts to perform a task. ~~(7-1-26)~~( )

06. Chore Services. Include intermittent assistance or chore activities when necessary to maintain functional use of the participant's home or to provide a clean, sanitary, and safe environment. Services are only available when neither the participant, nor anyone else in the home, is ~~capable of~~ able to perform~~ing~~ or financially ~~providing~~ provide for them, and when no other non-paid support, landlord, agency, or third-party payer is required or willing ~~or~~ and able to provide. Services are limited to those provided in a home rented or owned by the participant. For rental property, the Department examines ~~the~~ lease agreements for landlord responsibilities prior to any authorization of service. ~~(7-1-26)~~( )

07. Companion Services. In-home services ~~that include~~ including non-medical care, supervision, and socialization provided to ~~a functionally impaired adult ensuring~~ ensure the safety and well-being of a ~~person~~ participant who cannot be left alone due to their condition. The provider may live with a participant. The provider may ~~provide~~ use cuing and occasional assistance with ADL and perform light housekeeping tasks ~~that are~~ incidental to the care and supervision of the participant, but the primary responsibility is to provide companionship and to be accessible in case of emergency. ~~(7-1-26)~~( )

08. Consultation (Self-Direction). Services provided by a PAA to a participant or family member to increase their skills as an employer or manager of their own care. Services are directed at achieving the highest level of independence and self-reliance possible for the participant and ~~the participant's~~ their family by consulting with the participant and family to gain a better understanding of the ~~special~~ participant's needs ~~of the participant~~ and the caregiver role ~~of the caregiver~~. ~~(7-1-26)~~( )

09. Home-Delivered Meals. Meals delivered to the participant's home that promote adequate nutrition. Participants can receive one (1) to two (2) meals per day when they rent or own a home, are alone for extended periods with no caregiver, and are unable to prepare a meal without assistance. (7-1-26)

10. Homemaker Services. Performing for or assisting the participant with essential errands and other routine housekeeping duties when no one else in the household ~~is capable of performing~~ can perform these tasks. ~~(7-1-26)~~( )

11. Environmental Accessibility Adaptations. Minor housing adaptations necessary for a participant to function with greater independence in their home, or without which, would require institutionalization or pose a risk to health, or safety including: (7-1-26)

a. Installations or modifications necessary to accommodate medical equipment and supplies necessary for the participant's health and safety ~~of the participant~~ but excludes those that are not of direct medical or remedial benefit to the participant. ~~(7-1-26)~~( )

b. Unless otherwise authorized, permanent modifications are limited to the participant's principal residence that is owned by the participant or their non-paid family. (7-1-26)

c. Portable or non-stationary modifications may be made when a participant or their non-paid family rents a home, and modifications follow a participant to their next residence. (7-1-26)

12. Personal Emergency Response System (PERS). Electronic devices enabling participants to secure help in an emergency which connects to a participant's phone and is programmed to signal a response center when activated. The response center is staffed by trained professionals. PERS is limited to participants who rent or own a home, or live with unpaid caregivers, are alone for extended periods with no caregiver, and require extensive, routine supervision. (7-1-26)

13. Respite ~~Care~~. Short-term breaks from caregiving responsibilities to non-paid caregivers. The caregiver or participant selects, trains, and directs the provider. While receiving respite ~~care~~, participants cannot receive other duplicative services. Respite ~~care~~ does not include room and board payments. Services may be provided in a participant's residence, CFH, DDA, RALF, or ADH facility. ~~(7-1-26)~~( )

14. Skilled Nursing. Intermittent or continuous oversight, training, or skilled care within the scope of the Nurse Practice Act provided by an RN or LPN under the RN's supervision ~~of an RN~~. Services cannot be less cost-effective than a Home Health visit. ~~(7-1-26)~~( )

15. Residential Habilitation. Habilitation services to help an individual acquire, retain, or improve their ability to reside as independently as possible in the community or maintain family unity, and includes training in one of the following: (7-1-26)

a. Self-direction; (7-1-26)

b. Money management; (7-1-26)

c. Daily living skills; (7-1-26)

d. Socialization not including participation in non-therapeutic activities that are diversional or recreational in nature; (7-1-26)

e. Mobility; (7-1-26)

f. Behavior shaping and management. (7-1-26)

g. ~~Personal assistance services~~PCS that assist an individual in ADL, household tasks, and other routine activities as the participant or their primary caregivers are unable to accomplish ~~on their own behalf~~ themselves. ~~(7-1-26)~~( )

h. Skills training to teach participants and supports to perform activities with greater independence and to reinforce habilitation training. (7-1-26)

16. Day Habilitation. Assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills ~~that take place~~ in a non-residential setting. Services focus on enabling the participant to attain or maintain their maximum functional level and are coordinated with any physical, occupational, or speech-language therapy services listed in the service plan ~~of care~~. Services may reinforce skills taught in school, therapy, or other settings. ~~(7-1-26)~~( )

17. Supported Employment. Competitive work in integrated work settings for individuals for whom competitive employment has not traditionally occurred, or when competitive employment is interrupted or intermittent due to severe disability. The nature and severity of an individual's disability requires intensive supported employment services or extended services for them to work. This service is not available when funded under another program. (7-1-26)

18. Transition Services. Goods and services enabling a participant residing in a NF, hospital, IMD, or ICF/IID to transition to a community-based setting immediately following discharge from a qualified institution after a minimum of forty-five (45) days. Authorization is only allowed when a participant is unable to meet an expense or obtain supports from other sources. ~~(7-1-26)~~( )

a. Services may include: (7-1-26)

i. Security deposits required to obtain a lease on an apartment or home; (7-1-26)

ii. Cost of essential household furnishings; (7-1-26)

iii. Set-up fees or deposits for utility or service access; (7-1-26)

iv. Services necessary for health and safety prior to occupancy; (7-1-26)

v. Moving expenses; and (7-1-26)

vi. Activities to assess need, arrange for, and procure transition services. (7-1-26)

b. Exclusions. Ongoing expenses (including utilities), real property, décor, or entertainment and recreational items. (7-1-26)

c. Limitations. ~~A total cost of two thousand dollars ($2,000) per participant and~~ Assistance is only ~~accessed~~ available once every two (2) years for up to two thousand dollars ($2,000), following a qualifying transition. ~~Services are furnished when a participant is unable to meet an expense or when a support cannot be obtained from other sources.~~ ~~(7-1-26)~~( )

19. **A&D Case Management**. To assist participants with gaining and coordinating access to necessary care and services appropriate to the needs of the individual and may include crisis hours. ~~(7-1-26)~~( )

543. A&D WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

01. **Individual Service Plan**. The Department administers the assessment and develops the initial ~~individual~~ service plan. The Department reviews and approves all ~~individual~~ service plans based on information from the assessment and any other medical information ~~that verifies~~ verifying the need for services, and authorizes services by type, scope, and amount. All ~~individual~~ service plans must meet HCBS person-centered planning requirements. ~~(7-1-26)~~( )

a. Services not in the ~~individual~~ service plan or exceeding those approved by the Department are not eligible for Medicaid payment. ~~(7-1-26)~~( )

b. The earliest services can be approved is ~~on~~ the date ~~an individual~~ a service plan is signed by the participant or their designee. ~~(7-1-26)~~( )

c. All services ~~that are provided~~ must be based on a documented service plan. ~~(7-1-26)~~( )

d. A new plan must be developed and approved annually. (7-1-26)

e. The plan may be adjusted during the year with an addendum. ~~These a~~Adjustments must be based on changes in a participant's need or demonstrated outcomes. Additional assessments or information may be clinically necessary. Adjustment is subject to Department PA. ~~(7-1-26)~~( )

02. **Provider Records**. (7-1-26)

a. Providers must document each visit ~~made~~ or service provided to the participant, and record the following: ~~(7-1-26)~~( )

i. Service date; (7-1-26)

ii. Services provided; (7-1-26)

iii. Statement of participant's response to services when applicable, including any changes in their

condition; and (7-1-26)

iv. Length of visit, including ~~time in and out~~ start and end times. Unless the Department determines a participant is unable to, service delivery is verified by the participant by signing a service record. ~~(7-1-26)~~( )

b. Providers must maintain service delivery records accessible to participants. (7-1-26)

c. The ~~individual~~ service plan must be available to all providers and the Department. The individual service plan and assessment are available from the Department for providers with a release of information signed by the participant or legal representative. ~~(7-1-26)~~( )

d. EVV Systems do not replace documentation requirements but may be used to generate documentation. (7-1-26)

03. Provider Notification. Providers must document in the service record and notify the Department, medical provider, A&D or MCO case manager, and family when any significant changes occur in the participant's condition ~~are noted~~. ~~(7-1-26)~~( )

544. A&D WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Employment Status. Unless otherwise specified by the Department, each ~~individual~~ service provider must be an agency employee ~~of an agency~~. The Department may enter into provider agreements with individuals in situations when no agency exists, or no FI is willing to provide services. Such agreements are reviewed annually to verify whether agency coverage ~~by a PAA or FI~~ is still not available. ~~(7-1-26)~~( )

02. Fiscal Intermediary Services (FI). An FI providing Consultation services supporting self-direction must: (7-1-26)

a. Assure compliance with legal requirements related to employment of ~~providers~~DCWs; ~~(7-1-26)~~( )

b. Offer supportive services to enable participants or their families to perform the required employer tasks themselves; (7-1-26)

c. Bill Medicaid for ~~services~~ Department-authorized ~~by the Department~~ services; ~~(7-1-26)~~( )

d. Collect any ~~participant participation due~~ share of cost; ~~(7-1-26)~~( )

e. Pay providers for service; (7-1-26)

f. Perform all necessary withholding as required by state and federal regulations; (7-1-26)

g. Assure that ~~providers~~ DCWs meet the required standards and qualifications; ~~(7-1-26)~~( )

h. Maintain liability insurance coverage; (7-1-26)

i. Conduct annual participant satisfaction or quality control reviews made available to the Department and the public; and (7-1-26)

j. Obtain required background checks and health screens on ~~employees~~ DCWs. ~~(7-1-26)~~( )

03. Provider Qualifications. Providers of homemaker, respite ~~care~~, ADH, ~~transportation~~ NMT, chore service~~s~~, companion services, attendant care, adult residential care, A&D ~~C~~case ~~M~~management, residential habilitation, and home-delivered meals must meet, either by formal training or demonstrated competency, the training requirements contained in the provider training matrix and the standards for direct care staff and allowable tasks or activities in the Department's A&D waiver as approved by CMS. Persons aged sixteen (16) or seventeen (17) must also be, or working towards, a CNA to qualify as DCWs. ~~Direct care workers~~DCWs cannot be a participant's spouse.

~~(7-1-26)~~( )

04. **Quality Assurance (QA)**. Providers must respond to QA reviews within forty-five (45) days of receiving results. If problems are identified, the provider must implement a quality improvement plan and report the results to the Department upon request. (7-1-26)

05. **Specialized Medical Equipment and Supplies**. Must be enrolled with Medicaid as a supplier. Providers must ensure all items meet applicable standards of manufacture, design, and installation. Preference is given to the most cost-effective option to meet a participant's needs. (7-1-26)

06. **Consultation ~~Services~~**. Must be provided ~~through~~ by a PAA by a person with demonstrated skills in training participants/family members to hire, fire, train, and supervise their own ~~care providers~~ DCWs.
~~(7-1-26)~~( )

07. **Adult Residential Care**. Must ensure that adequate staff are provided to meet the needs of the participants accepted for admission. (7-1-26)

08. **Home-Delivered Meals**. (7-1-26)

a. Each meal meets one third (1/3) of the Recommended Daily Allowance, as defined by the United States Department of Agriculture (USDA); (7-1-26)

b. Meals are delivered under the service plan, in a sanitary manner, and at the correct temperature for the specific type of food; (7-1-26)

c. Maintain ~~D~~documentation ~~is maintained~~ demonstrating that ~~the~~ meals served are made from the highest USDA grade for each specific food served; and ~~(7-1-26)~~( )

d. A Registered Dietitian documents the review and approval of menus, menu cycles, and any changes or substitutions. (7-1-26)

09. **PERS**. Must demonstrate that devices installed in a participant's home meet Federal Communications Commission (FCC) standards. (7-1-26)

10. **Adult Day Health**. ~~(7-1-26)~~

~~**a.** Providers must notify the Department for the participant when the service is provided in a CFH other than the participant's primary residence. (7-1-26)~~

~~**b.** Providers m~~Must be free from communicable disease. ~~(7-1-26)~~( )

11. **Non-Medical Transportation**. Possess a valid driver's license and vehicle insurance. (7-1-26)

12. **Attendant Care and Homemaker**. Must be employees of ~~an agency~~ a PAA. ~~(7-1-26)~~( )

~~**13.** **Homemaker Services**. Must be employees of an agency. (7-1-26)~~

1~~2~~3. **Environmental Accessibility Adaptations**. Must meet applicable state or local building codes and meet state or local building, plumbing, and electrical requirements for certification. (7-1-26)

1~~3~~4. **Residential Habilitation**. Employment by a certified residential habilitation agency. ~~Prior to delivering services, complete an orientation program and additional training requirements must be completed within six (6) months of employment. (7-1-26)~~( )

1~~4~~5. **Day Habilitation**. Employed by a certified residential habilitation agency. Prior to delivering services, staff must complete an orientation program and complete additional training within six (6) months of employment. (7-1-26)

17~~6~~. **Respite~~ Care~~**. Receive instructions in the participant's needs, demonstrate the ability to follow~~ the~~ a service plan, and be free of communicable disease. ~~(7-1-26)~~( )

18~~7~~. **Supported Employment**.~~ Provided~~Employed by an agency that meets State requirements. ~~(7-1-26)~~( )

19~~8~~. **Chore Service~~s~~**. Be skilled in the service~~ to be~~ provided; and demonstrate the ability to follow a service plan. ~~(7-1-26)~~( )

~~20~~19. **Transition Services**. Transition managers employed by a PAA or service coordination agency. ~~(7-1-26)~~( )

2~~1~~0. **A&D Case Management**. Case ~~M~~managers~~ must be~~ employed by a~~n~~ PAA or service coordination agency~~ that is not an FI~~. Case ~~M~~managers may not provide other direct services. ~~(7-1-26)~~( )

545. A&D WAIVER SERVICES: PROVIDER REIMBURSEMENT.

01. **Rates**.~~ Reimbursement for services~~ Payment includes both services and mileage. Mileage for ~~provider~~ DCW transportation to and from the service delivery location is not reimbursable. ~~(7-1-26)~~( )

02. **Electronic Visit Verification (EVV) Compliance**. Claims for Attendant Care, Homemaker, and Respite~~ services~~ provided by a PAA require EVV compliance to be reimbursable. ~~(7-1-26)~~( )

546. – 548. (RESERVED)

SUB AREA: TRANSITION MANAGEMENT
(Section 549)

549. TRANSITION MANAGEMENT.
Provides relocation assistance and intensive service coordination activities to assist NF, hospital, IMD, and ICF/IID residents to transition to community settings of their choice. Transition managers provide oversight and coordination activities for participants during a transitional period up to twelve (12) months following a return to the community, functioning as a liaison between the participant, institutional or facility discharge staff, and other individuals identified by the participant. Participants are eligible to receive transition management when planning to discharge from a qualifying institution after residing within that institution for a minimum of forty-five (45) days. (7-1-26)

01. **Provider Qualifications**. Transition managers must: (7-1-26)

a. Successfully complete~~ of~~ a Department-approved Transition Manager training prior to providing any transition management or transition services; ~~(7-1-26)~~( )

b. Have a Bachelor's degree in a human services field or three (3) years' supervised work experience with the population served; and (7-1-26)

c. Be employed by an agency. (7-1-26)

02. **Service Description**. Includes the following activities: (7-1-26)

a. A comprehensive assessment of health, social, and housing needs; (7-1-26)

b. Development of housing options, including assistance with housing choices, applications, waitlist follow-up, roommate selection, and introductory visits; (7-1-26)

c. Assistance with tasks necessary to accomplish a move from the institutional setting; (7-1-26)

d. Securing Transition Services to coordinate the move, including: (7-1-26)

i. Obtaining DME, assistive technology, and medical supplies; (7-1-26)

ii. Arranging for home modifications; (7-1-26)

iii. Applying for public assistance; or (7-1-26)

iv. Arranging household preparations including scheduling moving or cleaning services, utility set-up, purchasing furniture, and household supplies. (7-1-26)

e. Coordinating with others involved in plan development for the participant to ensure successful transition and establishment in a community setting; and (7-1-26)

f. Providing post-transition support, including assistance with problem solving, dependency and isolation concerns, consumer-directed services and supports, post-secondary educational institutions and proprietary schools, and community inclusion. (7-1-26)

03. Limitations. Transition management is limited to seventy-two (72) hours per participant per qualifying transition. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

551. PCS: ELIGIBILITY.

01. ~~Level of Care~~Assessment. The Department conducts an assessment to determine whether a participant's medical condition impairs their physical or mental functions or independence, and whether they can remain safely and effectively in their personal residence when supported by authorized PCS. ~~(7-1-26)~~( )

02. Redetermination. Required annually to reauthorize PCS or to refer a participant to a NF. (7-1-26)

03. Significant Changes. An assessment can be requested due to changes in a participant's needs at any time. (7-1-26)

552. PCS: COVERAGE AND LIMITATIONS.

01. Medical Care and Services. Tasks related to a participant's physical or functional requirements provided in the participant's personal residence including assistance with: (7-1-26)

a. Basic personal care and grooming; (7-1-26)

b. Bladder or bowel routines or requirements; (7-1-26)

c. Food, nutrition, and diet activities; (7-1-26)

d. Continuation of at home active treatment programs to increase or maintain independence for participants with DD; (7-1-26)

e. Physician-ordered medications ordinarily self-administered; (7-1-26)

f. Non-nasogastric gastrostomy tube feedings that meet the following requirements: (7-1-26)

i. Non-complex tasks that can be safely performed in a participant's location; (7-1-26)

ii. An RN assessed a participant's needs and developed a written procedure according to a participant's individual~~ized~~ needs; ~~(7-1-26)~~( )

iii. An RN delegates by name who can perform this procedure only after an individual demonstrates safe performance of the individualized procedure. RNs must document the strengths and weaknesses of any delegates, and evaluate their performance monthly; (7-1-26)

iv. Delegates must report any change in participant status or problems with the procedure immediately to the RN; (7-1-26)

v. The supervisor RN maintains documentation of the individualized procedure, the supervised performance of the procedure, and follow-up evaluations of delegates readily available for review, in the participant's record; and (7-1-26)

vi. ~~Direct care workers~~DCWs only give routine medication through a non-nasogastric tube as authorized by a supervisor RN. ~~(7-1-26)~~( )

02. Non-Medical Care and Services. Includes the following tasks, when no natural supports are available: (7-1-26)

a. Minimal housekeeping tasks incidental to the delivery of an ADL care task essential to participant comfort or health and excludes services for any other residents. (7-1-26)

b. Accompanying a participant to medical appointments or other trips reasonably required for medical diagnosis or treatment. (7-1-26)

c. Shopping for food or other items specific to a participant's health and maintenance. (7-1-26)

03. Place of Service. PCS may be provided in a participant's personal residence, including a CFH, a RALF, or a PCS Family Alternate Care Home (FACH), and in the community only when an individual's daily activities take them out of the home and are limited to tasks in their approved service plan. (7-1-26)

04. Service Exclusions. (7-1-26)

a. Irrigating or suctioning any body cavity requiring sterile procedures or applying dressings with prescription medication or aseptic techniques; (7-1-26)

b. Catheter insertion or sterile irrigation; (7-1-26)

c. Injecting fluids into veins, muscles or skin; and (7-1-26)

d. Administering medication not authorized by a supervisor RN. (7-1-26)

05. Participant Limitations. Sixteen (16) hours per week unless authorized under EPSDT. (7-1-26)

06. ~~Provider Limitations~~. ~~No home, regardless of the number of providers in a home, may serve more than two (2) children authorized for eight (8) or more hours of PCS per day.~~**Supervisor RN and QIDP**. The Department authorizes oversight activities paid per visit to conduct participant evaluations and for service plan development and authorize additional evaluations or emergency visits as needed. ~~(7-1-26)~~( )

553. PCS: PROCEDURAL REQUIREMENTS.

01. Service Plan. All PCS are provided based on a documented service plan according to place of service. (7-1-26)

a. PAAs prepare the service plan with participants in their own home or a PCS FACH, based on applicable physician or authorized provider information, assessment results (including any~~,~~ QIDP assessments or observations), and participant provided information. Service plans must include all medical and non-medical tasks the provider performs, including amount, type, and frequency. Plans must be updated annually or based on treatment

results or significant changes in participant needs. ~~(7-1-26)~~( )

b. CFH/RALF service plans must meet applicable licensing requirements for each residence type. (7-1-26)

02. Supervision. An RN or QIDP provides oversight of PCS as required by the Department. Activities include: (7-1-26)

a. Service plan development assistance, including in-home active treatment plans. (7-1-26)

b. Review of treatment provided and verified by service delivery records and through on-site participant interviews. (7-1-26)

c. Service plan re-evaluations, including on-site visits to evaluate change in a participant's condition as needed. (7-1-26)

d. Immediate notification to any guardian, emergency contact, or family member when a significant change in a participant's physical condition or response to services occurs. (7-1-26)

03. PA. Authorizations are based on the participant's assessment, individual service plan, and any other medical information supporting medical needs. (7-1-26)

04. Record Requirements in Participant Homes. PCS records must be maintained for all participants in their own homes or in a PCS (FACH), in a format accessible to the participant. (7-1-26)

a. Providers must document every visit made to a participant's home and record the date, time, duration, services provided, and any changes noted in a participant's condition or deviations from the service plan. (7-1-26)

b. Participants or legal guardians must verify service delivery by signing the record. (7-1-26)

c. Providers must sign the service plan indicating they will deliver services according to the authorization and consistent with HCBS requirements. (7-1-26)

d. EVV systems described do not replace documentation requirements but may be used to generate documentation. (7-1-26)

05. Provider Notification. Providers must notify the Department and the medical provider ~~for~~ when any significant changes in a participant's condition occur, and document in the participant record. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

555. PCS: REIMBURSEMENT.

~~**01. Calculated Fee**. Fees include a basic rate for PCS and mileage. No separate charges are paid for provider transportation to and from a participant's home or non-medical transportation, unless authorized by the Department under another billable service.~~ ~~(7-1-26)~~

~~**02. Rate Methodology**. Rates are calculated using an annual survey of all Idaho NFs and ICFs/IID to establish the WAHR for Idaho NF employees in comparable positions.~~ ~~(7-1-26)~~

~~**03. PAA Rates**. The Department establishes PAA rates for PCS based on the WAHR multiplied by a supplemental component composed of costs reported for travel, administration, training, and all payroll taxes and fringe benefits collected during the most recent State Fiscal Year.~~ ~~(7-1-26)~~

041. CFH and RALF Rates. PCS rates for residents are paid based on their assessed care level as follows: (7-1-26)

a. Level I, any diagnosis EXCEPT Serious and Persistent Mental Illness (SPMI), DD, Alzheimer's Disease and Related Dementias (ADRD) = one and twenty-five hundredths (1.25) hrs/day. (7-1-26)

b. Level II, any diagnosis EXCEPT SPMI, DD, ADRD = one and five tenths (1.5) hrs/day. (7-1-26)

c. Level III, any diagnosis = two and twenty-five hundredths (2.25) hrs/day. (7-1-26)

d. Level IV, ONLY SPMI, DD, ADRD who scores at level one (1) or two (2) = one and seventy-nine hundredths (1.79) hrs/day. (7-1-26)

052. Supervisor RN and QIDP Rates. The Department authorizes oversight activities paid per visit to conduct participant evaluations and for Service Plan development and may authorize additional evaluations or emergency visits as needed. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

560. DD SERVICES: REQUIREMENTS.
DD services, including ~~Family Directed Community Supports (F~~ CDCS~~)~~, are covered when provided with the right care, in the right place, at the right price, and with the right outcomes to enhance health and safety, and promote participants' rights, self-determination, and independence. Services require an assessment of the need for services, service plan development ~~of a service plan~~ with the budget assigned by the Department, PA of services, and a quality improvement program. ~~(7-1-26)~~( )

01. Right Care. Standard of care for the diagnosis, functional needs, and abilities to achieve the desired outcome. (7-1-26)

02. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (7-1-26)

03. Right Price. The most integrated and least expensive services that are sufficient to address the participant's needs as identified in the assessment. (7-1-26)

04. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (7-1-26)

561. DD DETERMINATION STANDARDS: PARTICIPANT ELIGIBILITY.
Assessments required for determining eligibility are completed prior to the participant receiving services and include documentation of a DD, an MSDA, and a functional assessment. For adult DD waiver services, an assessor must determine the participant meets ICF/IID level of care. DD as under Section 66-402, Idaho Code, is a chronic disability that appears before the age of twenty-two (22) years evidenced by: (7-1-26)

01. Impairment. Impairment is attributed to one (1) of the following: (7-1-26)

a. Intellectual Disability. (7-1-26)

i. IQ test score of seventy (70) or below with a five (5) point standard error of measurement; or (7-1-26)

ii. A delay of thirty percent (30%) overall on a functional assessment when under the age of five (5). (7-1-26)

b. Cerebral Palsy. (7-1-26)

c. Epilepsy, except when seizure-free and not on medication for three (3) years. (7-1-26)

d. Autism. (7-1-26)

e. Other conditions closely related or similar to a-d. requiring similar treatment or services: (7-1-26)

i. IQ test score above seventy-five (75) when functional limitations create a condition like intellectual disability. (7-1-26)

ii. Disruption in motor function like cerebral palsy. (7-1-26)

iii. Disorder causing interruption of consciousness like epilepsy. (7-1-26)

iv. Not a mental illness. (7-1-26)

f. Dyslexia resulting from a-e. (7-1-26)

02. Substantial Functional Limitations. The impairment requires a combination and sequence of services that need to be individually planned and coordinated for substantial functional limitations within three (3) major life activities in b-h. (7-1-26)

a. Substantial functional limitations are demonstrated by having a score of two (2) standard deviations below the mean. Participants under three (3) years of age can alternatively demonstrate by: ~~(7-1-26)~~( )

i. Scoring thirty percent (30%) below age norm; or (7-1-26)

ii. Exhibiting a six (6) month delay. (7-1-26)

b. Self-care. (7-1-26)

i. Under Age twenty-one (21): Manifested when age-appropriate skills are limited, and substantial assistance is required. (7-1-26)

ii. Age twenty-one (21) and Over: Manifested when the person requires assistance in performing eating, hygiene, grooming, or health care skills, or the time to complete these tasks causes substantial impairment of conducting other ADL or retaining employment. (7-1-26)

c. Receptive and expressive language. (7-1-26)

i. Under Age three (3): Manifested when they have been diagnosed with performance thirty percent (30%) below age norm (adjusted for prematurity up to two (2) years) or demonstrated at least two (2) standard deviations below the mean in either area or one-and-one half (1 1/2) below in both areas of language development. (7-1-26)

ii. Age three (3) and Above: Manifest when a person is unable to communicate effectively without the aid of a third person, a person with special skills, or without an assistive device (such as sign language). (7-1-26)

d. Learning manifested when cognition, retention, reasoning, visual or aural communications, or other learning processes or mechanisms are impaired to the extent that interventions beyond normal are required for the development of social, self-care, language, academic, or vocational skills. (7-1-26)

e. Mobility. (7-1-26)

i. Under Age twenty-one (21): Measured by an age-appropriate instrument that compares the child's skills for postural control and movement and coordinated use of the small muscles with skills expected of children of the same age. (7-1-26)

ii. Age twenty-one (21) and Over: Manifested when fine or gross motor skills are impaired to the extent that the assistance of another person or an assistive device is required for movement from place to place. (7-1-26)

f. Self-direction. (7-1-26)

i. Under Age twenty-one (21): Manifested when the child is unable to help themselves or cooperate with others with age-appropriate assistance to meet personal needs, learn new skills, follow rules, and adapt to environments. (7-1-26)

ii. Age twenty-one (21) and Over: Manifested when assistance is required in managing personal finances, protecting self-interest, or making decisions that may affect well-being. (7-1-26)

g. Capacity for independent living. (7-1-26)

i. Under Age twenty-one (21): Measured by an age-appropriate instrument that compares personal independence and social responsibility expected of comparable age and cultural groups. (7-1-26)

ii. Age twenty-one (21) and Over: A substantial functional limitation is manifest when, for a person's own safety or well-being, supervision or assistance is required, at least on a daily basis, in the performance of health maintenance, housekeeping, budgeting, or leisure time activities and in the utilization of community resources. (7-1-26)

h. Economic self-sufficiency. (7-1-26)

i. Under Age five (5): Evidenced by eligibility for SSI, early intervention, or early childhood special education under the Individuals with Disabilities Education Act (IDEA). (7-1-26)

ii. Age five (5) to Age Twenty-one (21): Use the pre-vocational area of a standardized functional assessment to document a limitation in this area. (7-1-26)

iii. Age twenty-one (21) and Over: Manifested when unable to perform the tasks necessary for regular employment or limited in productive capacity to the extent that their earned annual income, after extraordinary expenses occasioned by the disability, is insufficient for self-support. (7-1-26)

03. Necessity of Care. The need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of life-long or extended duration and individually planned and coordinated. (7-1-26)

a. Under Age five (5): Determined by a multi-disciplinary team for early intervention services through SSI, an IFSP, child study team or early childhood special education services through an IEP. (7-1-26)

b. Age five (5) and Over: Life-long or extended duration means the condition has reasonable likelihood of continuing for a protracted period, including continuation throughout life. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

568. ADULT DD SERVICES: DEFINITIONS.

01. Clinical Review. Process of professional review to validate the need for continued services. (7-1-26)

02. Exception Review. Clinical review of a plan falling outside established standards due to a health or safety risk. (7-1-26)

03. Health. The prevention of deterioration of one's physical or mental health condition, cognitive functioning, or an increase in maladaptive behavior, and is related to the effects of one's disability. (7-1-26)

04. Health Risks. Must be established through written documentation and current treatment recommendations from a ~~licensed practitioner of the healing arts under these rules, or other~~ professional licensed by the State of Idaho whose recommendation is within the scope of their license. Such documentation must establish: ~~(7-1-26)~~( )

a. The current physical or mental condition, or cognitive functioning that will likely deteriorate, or the current maladaptive behavior(s) that will likely increase; and (7-1-26)

b. The specific supports or services being requested, including type and frequency if applicable, that will address the identified need. (7-1-26)

c. To comply with the documentation requirement, the Department may require the participant to obtain additional consultation or assessment, available to the participant and covered by Medicaid, from a professional licensed by the State of Idaho acting within the scope of their license. If the Department requires additional consultation or assessment, the Department will specify the nature of the consultation or assessment and the necessary documentation. (7-1-26)

05. Safety. Prevention of criminal activity, destruction of property, or injury or harm to self or others. (7-1-26)

06. Safety Risks. Must be documented by the following: (7-1-26)

a. Current incident reports; (7-1-26)

b. Police reports; (7-1-26)

c. Assessments from a ~~licensed practitioner of the healing arts under these rules or a~~ professional licensed in Idaho and whose assessment is within the scope of their license; or ~~(7-1-26)~~( )

d. Status reports and implementation plans that reflect the type and frequency of intervention(s) in place to prevent the risk and the participant's progress under such intervention(s). (7-1-26)

e. Such documentation must establish: (7-1-26)

i. An imminent or likely safety risk; and (7-1-26)

ii. The specific supports or services that are being requested, including the type and frequency if applicable, that are likely to prevent that risk. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

571. ADULT DD SERVICES: COVERAGE AND LIMITATIONS.
PA is required for ~~service coordination,~~ DD waiver and DD state plan services. Services must be delivered under a service plan by providers selected by the participant. ~~(7-1-26)~~( )

572. ADULT DD SERVICES: PROCEDURAL REQUIREMENTS.
Providers must immediately report all allegations, observations, or suspicions of mistreatment, abuse, neglect, or exploitation, and injuries of unknown origin to the agency administrator, the Department, the adult protection authority, and any other required entity. ~~(7-1-26)~~( )

573. ADULT DD SERVICES: SERVICE PLAN REQUIREMENTS.

The service plan identifies the type of service to be delivered, goals to be addressed within the plan year, frequency of supports and services, and providers. The service plan must include activities to promote progress, maintain functional skills, or delay or prevent regression. Unless the participant has a guardian, who retains full decision-making authority, the participant must make decisions regarding the type and amount of services. The Department, with the participant, ensures the service plan is based on the individualized participant budget. The plan developer must distribute a copy of the service plan, in whole or part, to any other provider identified by the participant during the person-centered planning process. (7-1-26)

01. Assessment. The assessment with a Department-approved tool for DD service eligibility is required for all participants prior to plan development and includes: (7-1-26)

a. History and Physical. A medical provider's assessment and referral for nursing services and developmental therapy if anticipated to be part of the service plan. A history and physical is required within the year prior to the initiation of service and updated annually, by the medical provider. (7-1-26)

b. Medical, Social, and Developmental Assessment (MSDA). An assessment reviewed annually to assure it accurately reflects the participant's status. The current assessment must be evaluated prior to the initiation of adult DD services. Providers obtain and use this assessment documentation for adult program or service plan development. (7-1-26)

c. Medical Condition. The participant's medical conditions, risk of deterioration, living conditions, and individual goals. (7-1-26)

d. Behavioral or Psychiatric Needs. Behavioral or psychiatric needs that require special consideration. (7-1-26)

02. Paid Plan Developer Qualifications. Providers of direct services to the participant, or the assessor, cannot be chosen to be a paid plan developer. Plan development requires an individual be employed as a service coordinator. (7-1-26)

03. Plan Development. The plan development process must meet the HCBS person-centered planning requirements. The participant may facilitate their own person-centered planning meeting or designate a paid or non-paid plan developer. (7-1-26)

04. No Duplication of Services. The plan developer ensures that there is no duplication of services. (7-1-26)

05. Plan Monitoring. The planning team, including a plan monitor, must identify the frequency of monitoring, which must be at least every ninety (90) days. Plan monitoring includes contacting providers to identify barriers to service delivery, discussing participant satisfaction with the quality and quantity of their services, and review of provider status reviews. (7-1-26)

06. Provider Status Reviews. Providers required to develop a PIP must report the participant's progress toward goals to the plan monitor on the provider status review when the plan has been in effect for six (6) months and at the annual person-centered planning meeting. The semi-annual review is due fifteen (15) days after the end of the sixth month. The annual review is due thirty (30) days after plan's end. Semi-annual and annual reviews include status of supports and services to identify progress, maintenance, or delay or prevention of regression. (7-1-26)

07. Informed Choice. Prior to plan development, the plan developer must document they provided information and support to the participant to maximize their ability to make informed choices regarding the services and supports they receive and from whom. Planning team members must each indicate whether they believe the service plan meets the needs of the participant and represents the participant's choice. If there is a conflict that cannot be resolved among person-centered planning members or if a member does not believe the plan meets the participant's needs or represents the participant's choice, the service plan or amendment may be referred to the Department to negotiate a resolution. (7-1-26)

08. Provider Implementation Plan (PIP). Providers must develop a PIP that complies with HCBS setting requirements and identifies specific measurable objectives that relate to goals finalized and agreed to in the participant's authorized service plan. These objectives must demonstrate how the provider will assist the participant to meet the participant's goals, desired outcomes, and needs identified in the service plan. (7-1-26)

a. Exceptions. A PIP is not required for providers of: (7-1-26)

i. Specialized medical equipment; (7-1-26)

ii. Home-delivered meals; (7-1-26)

iii. Environmental accessibility adaptations; (7-1-26)

iv. Non-Medical Transportation; (7-1-26)

v. Personal Emergency Response System; (7-1-26)

vi. Respite care; (7-1-26)

vii. Chore services; (7-1-26)

viii. Community crisis support services; and ~~(7-1-26)~~( )

~~ix. Adult DD service coordination; and~~ ~~(7-1-26)~~

ix. Adult Day Health. (7-1-26)

b. Time To Complete. PIPs must be completed within fourteen (14) days of receipt of the authorized service plan, or the service start date, whichever is later. If the authorized service plan is received after the service start date, providers must support billing by documenting service delivery as agreed to by the participant and consistent with these rules. PIP revisions must be based on changes to the needs of the participant. (7-1-26)

c. PIP changes must be included in the participant's record, stating the reason for the change, documentation of coordination with other providers, the date a change was made, and the name and title of the person making the change. (7-1-26)

09. Addendum to the Service Plan. (7-1-26)

a. A service plan may be adjusted during the year with an addendum, subject to Department PA. These adjustments must be based on a change to a cost, addition or increase of a service, change of provider, addition of a restrictive intervention, or addition or increase of alone time. Additional assessments or information may be clinically necessary. (7-1-26)

b. The Department distributes a copy of the authorized addendum to providers responsible for the implementation of the plan. (7-1-26)

c. Upon receipt of the addendum, the provider must sign the addendum indicating they have reviewed the plan adjustment and will deliver services accordingly. Documentation must include the signature of the professional responsible for service provision with their title and the date signed and maintained in the participant's record. Provider signatures are completed each time an addendum is authorized. (7-1-26)

10. Annual Service Reauthorization. A new service plan must be provided to the Department by the plan developer at least forty-five (45) days prior to the expiration date of the current service plan for personal assistance unless delayed because of participant unavailability due to extenuating circumstances. If the service plan is not submitted within the period, authorization for provider payments may be terminated. Prior to submission, the plan developer must notify the providers who appear on the service plan of the annual review date, obtain a copy of the most recent provider status review, and convene the person-centered planning team to develop a new service plan.

(7-1-26)

11. **Notifications**. The Department notifies participants of its decision on their service plan. Notification includes an individualized explanation and how to appeal. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

581. CHILDREN'S DD HCBS STATE PLAN OPTION: ELIGIBILITY DETERMINATION.
~~Eligibility also applies to Family Directed Community Supports (FDCS).~~ ~~(7-1-26)~~

~~01.~~ **~~Eligibility Determination~~**. ~~A~~ A participant is eligible for the children's DD HCBS state plan option and FDCS from birth through age seventeen (17), when they have a DD and a demonstrated need for these services. A participant who meets Level II criteria or higher qualifies for ICF/IID Level of Care eligibility. ~~(7-1-26)~~( )

0~~2~~1. **Individualized Budget Methodology**. ~~The following categories are used to determine individualized budgets for children with DD.~~ Criteria as determined by a Department-approved tool. ~~(7-1-26)~~( )

a. Level I. ~~Children m~~Meeting DD criteria. ~~(7-1-26)~~( )

b. Level II. ~~Children who qualify based on f~~Functional limitations when their composite full-scale standard score of less than ~~fifty~~ sixty (~~5~~60) or ~~have an~~ the overall standard score up to ~~fifty~~sixty-three (~~5~~63) when combined with a maladaptive behavior score of ~~greater than one (1) to less than two (2) standard deviations from the mean~~ nineteen (19) or twenty (20). ~~(7-1-26)~~( )

c. Level III. ~~Children who qualify based on f~~Functional limitations with a composite full-scale standard score less than ~~fifty~~ sixty (~~5~~60) ~~with~~ and an autism spectrum disorder diagnosis. ~~(7-1-26)~~( )

d. Level IV. ~~Children who qualify based on m~~Maladaptive behaviors ~~when their maladaptive behavior v-Scale~~ score is ~~two (2) standard deviations or greater from the mean~~ twenty-one (21) or greater, or if on the Behavioral Category the participant scores a two (2) on critical items or two (2) or more critical items score as a one (1). ~~(7-1-26)~~( )

03. **Annual Re-Evaluation**. Budgets are re-evaluated annually or at the request of the participant~~,~~ or the Department, when there are documented changes that may support placement in a different budget category. ~~(7-1-26)~~( )

04. **Lapse in Service**. For participants re-applying for services, the assessor evaluates whether assessments are current and accurately describe the status of the participant. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

602. DEVELOPMENTAL THERAPY: COVERAGE AND LIMITATIONS.

01. **Coverage**. Developmental therapy is delivered in a DDA center-based program, the community, or the participant's home, and includes individual developmental therapy and group developmental therapy. Services must: (7-1-26)

a. Be directed toward rehabilitation or habilitation of physical or DDs in the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency. (7-1-26)

b. Include age-appropriate instruction in ADLs not gained by a participant during normal developmental stages or not likely to develop without training or therapy. (7-1-26)

~~e. Not include tutorial activities or assistance with educational tasks associated with educational needs resulting from a disability.~~ (7-1-26)

~~d~~c. Both individual and group therapy must be available based on participant needs, interests, or choices. (7-1-26)

~~e~~d. Include a minimum of one (1) qualified staff member providing direct services for every twelve (12) participants when center based. (7-1-26)

~~f~~e. Occur in integrated, inclusive settings with no more than three (3) participants per qualified staff at each community-based session. Additional staff must be added when necessary to meet the needs of each individual served. (7-1-26)

02. Limitations. Developmental therapy may not exceed these limitations: (7-1-26)

a. No more than twenty-two (22) hours per week. (7-1-26)

b. No more than forty (40) hours per week in combination with ADH and supported employment. (7-1-26)

c. Only one (1) type of Medicaid-reimbursable therapy during a single period. (7-1-26)

d. Cannot be reimbursed when providing transportation to and from the agency. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

604. ~~DEVELOPMENTAL THERAPY: INDIVIDUAL PROGRAM PLAN (IPP) PROCEDURAL REQUIREMENTS.~~(RESERVED)

~~**01. Intake**. Participants receiving HCBS A&D waiver services or PCS only requesting Developmental Therapy, may access services using an IPP, which does not require a DD plan developer. Services delivered through an IPP must be authorized by the Department and be based on the A&D waiver Service Plan. Prior to service delivery, a DDA must complete an IPP that meets the standards below.~~ (7-1-26)

~~**02. IPP Development**. IPPs must:~~ (7-1-26)

~~**a.** Be developed after completion of all required assessments;~~ (7-1-26)

~~**b.** Be signed prior to delivery of services by a medical provider, the participant, and their legal guardian if applicable;~~ (7-1-26)

~~**c.** Be developed at least annually, or more often, when necessary, to review or update the IPP to reflect any changes in the participant's needs or status; and~~ (7-1-26)

~~**d.** Promote self-sufficiency, participant choice in program objectives and activities, encourage participant's participation and inclusion in the community, and contain age-appropriate objectives.~~ (7-1-26)

~~**03. IPP Changes**. Changes to an IPP require notification and written authorization by the participant and their legal guardian if one (1) exists. Changes in type, amount, or duration of services must be recommended by a medical provider in writing. If the signatures of the participant or their legal guardian cannot be obtained, the DDA must document in the participant's record why signatures were not obtained. PIP changes must include the following documentation in the participant's record:~~ (7-1-26)

~~**a.** Reason for a change;~~ (7-1-26)

~~**b.** Coordination with other service providers, when applicable;~~ ~~(7-1-26)~~

~~**c.** Date of change; and~~ ~~(7-1-26)~~

~~**d.** Signature, date, credentials, and title of the professional making the change.~~ ~~(7-1-26)~~

605. DEVELOPMENTAL THERAPY: PROCEDURAL REQUIREMENTS.
DDAs must obtain all assessments required for DD services eligibility, billing no more than four (4) hours for the combination of all assessment, evaluation, or diagnostic services provided in a ~~calendar~~ plan year. The following assessment and diagnostic services are reimbursable: ~~(7-1-26)~~( )

01. Comprehensive Developmental Assessment. Assessments must: (7-1-26)

a. Be conducted by a Developmental Specialist and determine necessity of a service, guide treatment, and identify the participant's current strengths, needs, and interests. (7-1-26)

b. Be signed and dated by the professional completing the assessment, including their appropriate professional credentials or qualifications. (7-1-26)

c. Reflect the current status of the participant with assessments completed or updated at least every two (2) years. (7-1-26)

d. Reflect a person's developmental status in the following areas: (7-1-26)

i. Self-care; (7-1-26)

ii. Receptive and expressive language; (7-1-26)

iii. Learning; (7-1-26)

iv. Gross and fine motor development; (7-1-26)

v. Self-direction; (7-1-26)

vi. Capacity for independent living; and (7-1-26)

vii Economic self-sufficiency. (7-1-26)

02. Specific Skill Assessments. These assessments must: (7-1-26)

a. Further assess an area of limitation or deficit identified on a comprehensive developmental assessment. (7-1-26)

b. Relate to a goal on an ~~IPP or~~ ISP. ~~(7-1-26)~~( )

c. Be conducted by qualified professionals to determine a participant’s skill level within an area. (7-1-26)

d. Be used to determine baselines and develop a PIP. (7-1-26)

03. Documentation Requirements. DDAs must maintain records for each participant served. Each record must include documentation of the participant's involvement in and response to the services provided. For each participant, the following documentation is required: (7-1-26)

a. Daily entry of all activities conducted toward meeting their objectives. (7-1-26)

b. Sufficient progress data accurately assessing a participant's progress toward each objective; (7-1-26)

c. Review of data, and, when applicable, changes in the daily activities or implementation procedures by the qualified professional, including their dated initials. (7-1-26)

d. Documentation for six (6) month and annual reviews by the Developmental Specialist including a written description of the participant's progress toward their achievement of therapeutic goals, and reasons they continue to need services. (7-1-26)

e. Authorized service plan. (7-1-26)

04. PIP Requirements. The DDA must develop a PIP for each DDA objective included on the participant's ~~IPP or~~ ISP. All PIPs must relate to a goal or objective on the participant's ~~IPP or~~ ISP. PIPs must be developed within fourteen (14) days of service start date or receipt of an authorized ~~IPP or~~ ISP and be revised whenever participant needs change. If the PIP is not completed within fourteen (14) days, the participant's records must contain participant-based documentation justifying the delay. The provider addresses goals and objectives as agreed to by the participant until the annual PIP is completed and documents service delivery related to their interim goals and objectives. The PIP must include: ~~(7-1-26)~~( )

a. Participant's name. (7-1-26)

b. A baseline statement addressing the participant's skill level and abilities related to specific skills to be learned. (7-1-26)

c. Measurable, behaviorally stated objectives corresponding to the goals or objectives authorized in the service plan. (7-1-26)

d. Written instructions for staff that include curriculum, interventions, task analyses, activity schedules, type and frequency of reinforcement, and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward stated objectives. (7-1-26)

e. Identification of the environments where services are provided. (7-1-26)

f. Target date for completion. (7-1-26)

05. Informed Objectives. Results from a psychological or psychiatric assessment must be used when developing objectives to ensure therapies provided by the DDA accommodate the participant's mental health needs and none of the therapeutic methods are contra-indicated or delivered in a manner that presents risks to the participant's mental health status. (7-1-26)

606. DEVELOPMENTAL THERAPY: PROVIDER QUALIFICATIONS AND DUTIES.

01. Developmental Specialists. Developmental Specialists for adults must have two hundred forty (240) hours of professionally supervised experience with individuals with DD and either: (7-1-26)

a. Possess a bachelor's or master's degree in the human services field; or (7-1-26)

b. Possess a bachelor's or master's degree in any area and have: (7-1-26)

i. Completed a competency course approved by the Department relating to Developmental Specialist job requirements; and (7-1-26)

ii. Passed a Department-approved competency examination. (7-1-26)

c. Any person employed as a Developmental Specialist in Idaho prior to May 30, 1997, unless

previously disallowed by the Department, may continue providing services as a Developmental Specialist as long as there is not a gap of more than three (3) years of employment as a Developmental Specialist. (7-1-26)

02. Developmental Therapy Paraprofessionals. Paraprofessionals who are at least seventeen (17) years old may be used by a DDA to provide developmental therapy when under the supervision of a Developmental Specialist. (7-1-26)

03. Collaboration with Other Providers. When participants receive rehabilitative or habilitative services from other providers, the DDA must coordinate each participant's program with their providers to maximize skill acquisition and generalization of skills across environments and avoid duplication of services. DDAs must maintain documentation of any collaboration that includes other service plans. Participant~~'~~s' files must also reflect how all services are integrated into a DDA's plan for each participant. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

611. ADULT DD WAIVER SERVICES: PARTICIPANT ELIGIBILITY.
The Department determines waiver eligibility. The participant must meet the following: (7-1-26)

01. Age. Be eighteen (18) years or older. (7-1-26)

02. Eligibility. The Department must determine whether: (7-1-26)

a. The participant would qualify for ICF/IID level of care if the DD waiver services were not available; (7-1-26)

b. The participant can reside safely and effectively in a non-institutional setting; and (7-1-26)

c. The average annual cost of a participant's waiver and other medical services do not exceed the average annual cost to Medicaid for ICF/IID care and other medical costs. (7-1-26)

03. DD Waiver Eligibility. Participants eligible for DD waiver services may instead choose admission to an ICF/IID. (7-1-26)

04. Redetermination. (7-1-26)

a. Financial and medical redetermination are conducted annually or sooner at the request of the participant, self-reliance, a provider agency, or medical provider. (7-1-26)

b. The redetermination process will assess the participant's continued need and eligibility for waiver services and discharge from the waiver services program. (7-1-26)

05. Notifications. The Department notifies participants of the eligibility decision after an assessment. Notification includes an individualized explanation of the decision and how they may appeal. (7-1-26)

06. Adult DD Waiver Limits. The number of Medicaid participants to receive waiver services under the Adult DD waiver is limited to the projected number of users in a CMS-approved waiver. Individuals applying for this waiver after the maximum is reached are placed on a waiting list to have their applications processed after ~~September 30th for~~ the first date of a new DD waiver year. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

614. ADULT DD WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Residential Habilitation – Supported Living. Employment by a licensed residential habilitation agency. Direct care staff must: (7-1-26)

a. Be at least eighteen (18) years old; (7-1-26)

b. Be free from communicable disease; (7-1-26)

c. Demonstrate the ability to administer the plan of service; (7-1-26)

d. Have a valid driver's license and vehicle insurance, if transporting participants; (7-1-26)

e. Receive training by a QIDP who has demonstrated experience in writing skill training programs. Training programs must include an orientation program completed before providing services, and additional ongoing training during employment. (7-1-26)

02. Residential Habilitation – CFH. Individuals providing direct services in their own home must be a CFH, receive program coordination provided through the Department, and: (7-1-26)

a. Be free from communicable disease; (7-1-26)

b. Have a valid driver's license and vehicle insurance, if transporting participants; and (7-1-26)

c. Have certification or licensure to perform tasks requiring certification or licensure. (7-1-26)

d. Prior to delivering services to a participant, complete an orientation training provided by the Department and additional training requirements for CFH providers within six (6) months of certification date. (7-1-26)

03. Chore Services. Be skilled in the service to be provided and demonstrate the ability to follow a service plan. (7-1-26)

04. Respite Care. Receive instructions in the participant’s needs, demonstrate the ability to follow a service plan, and be free of communicable disease. (7-1-26)

05. Supported Employment. Provided by an agency accredited by CARF or meet State requirements to be an agency. (7-1-26)

06. Non-Medical Transportation. Possess a valid driver's license and vehicle insurance. (7-1-26)

07. Specialized Medical Equipment. Enrollment as a supplier and ensure all items meet applicable standards of manufacture, design, and installation. Preference is given to the most cost-effective option to meet the participant’s needs. (7-1-26)

08. PERS. Demonstration that the devices installed in a participant’s home meet FCC standards. (7-1-26)

09. Home-Delivered Meals. Provided by a public agency or business ensuring: (7-1-26)

a. Each meal meets one-third (1/3) of the Recommended Daily Allowance, as defined by the USDA; (7-1-26)

b. Meals are delivered in a sanitary manner, and at the correct temperature for the specific type of food; and (7-1-26)

c. A Registered Dietitian documents the review and approval of menus, menu cycles, and any changes or substitutions. (7-1-26)

10. Behavior Consultation or Crisis Management. (7-1-26)

a. Work under the direct supervision of a psychologist or PhD in Special Education with training and experience treating severe behavior problems and applied behavior analysis; and (7-1-26)

i. Have a Master's degree in a behavioral science or a closely related field; (7-1-26)

ii. Be a licensed pharmacist; or (7-1-26)

iii. Be a QIDP. (7-1-26)

b. Emergency back-up providers must meet the qualifications of a residential habilitation agency. (7-1-26)

11. Adult Day Health. (7-1-26)

a. Services provided in a facility must meet the building and health standards ~~under IDAPA 16.03.21~~ of a DDA; ~~(7-1-26)~~( )

b. Provide care and supervision appropriate to the participant's needs as identified on the plan. (7-1-26)

c. Free from communicable disease. (7-1-26)

12. Transition Services. Transition managers. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

630. SERVICE COORDINATION: DEFINITIONS.

~~**01. Conflict of Interest**. A situation in which an agency or person directly or indirectly influences, or appears to influence, the direction of a participant to other services for financial gain.~~ ~~(7-1-26)~~

0~~2~~1. Crisis. An unanticipated event, circumstance, or life situation placing a participant at risk of hospitalization, loss of housing, loss of employment or major source of income, incarceration, or physical harm to self or others, including family altercation or psychiatric relapse. (7-1-26)

631. SERVICE COORDINATION: PARTICIPANT ELIGIBILITY.

01. Adults. A DD diagnosis and a need for assistance to access services and supports necessary to maintain their independence. ~~(7-1-26)~~( )

02. Children. All information necessary to make an eligibility determination must be received by the Department twenty (20) business days prior to the anticipated service coordination start date. The Department determines eligibility based on information provided by the service coordination agency or the family prior to the initiation of initial and ongoing plan development and services. Participants must meet the following requirements: (7-1-26)

a. Age of thirty-seven (37) months through the month of their 21st birthday. (7-1-26)

b. A diagnosis with special health care needs requiring medical and multidisciplinary rehabilitation services identified by a medical provider to prevent or minimize disability. (7-1-26)

c. Reimbursement for services is not available for participants whose needs can be met by other paid or unpaid sources. The child must require service coordination for one (1) or more of the following: (7-1-26)

i. A condition resulting in functioning below normal age level in one (1) or more life areas; (7-1-26)

ii. At risk of placement in a more restrictive environment or returning a child from an out of home placement due to their condition; (7-1-26)

iii. Danger to the health or safety of the child exists or a parent is unable to meet the child's needs; (7-1-26)

iv. Further complications may occur due to the condition without service coordination; or (7-1-26)

v. Requires multiple service providers and treatments. (7-1-26)

632. SERVICE COORDINATION: COVERAGE AND LIMITATIONS.
The Department covers service coordination for individuals who are unable, or have limited ability to gain access, coordinate, or maintain services on their own or through other means. These rules are not applicable to case management services provided under the A&D waiver, Transition Management benefit, or under managed care contracts. Service coordination includes: ~~(7-1-26)~~( )

01. Plan Assessment and Reassessment. Activities required when determining participant needs during plan development and reassessment that include completing documentation related to a participant's history, identifying a participant's needs, and gathering information to form a complete assessment of the participant. (7-1-26)

02. Plan Development. Development and revision of a service coordination plan including information collected through the assessment and specifying goals and actions needed by the participant. Plans must be updated annually or as needed to meet participant needs. (7-1-26)

03. Monitoring and Follow-Up. Contacts necessary to ensure a plan is implemented and adequately addresses a participant's needs and conducted as frequently as necessary. Activities must include one (1) or more face-to-face contacts with a participant at least every ninety (90) days and may occur via synchronous virtual care to determine: (7-1-26)

a. Services are provided according to the plan; (7-1-26)

b. Services in the plan are adequate; and (7-1-26)

c. Whether there are changes in the needs or status of a participant, requiring adjustments to the plan or service arrangements with providers. (7-1-26)

04. Crisis Assistance. Coordination used to help a participant access community resources to resolve a crisis that does not include crisis counseling, transportation to emergency service providers, or direct skill-building services. (7-1-26)

a. Crisis Assistance hours are unavailable until all available hours of service coordination have already been provided in the month. (7-1-26)

b. Authorization for crisis assistance is requested retroactively due to a crisis when a participant's service coordination benefits are exhausted, and no other support is available. A service coordinator must complete a crisis resolution plan and submit a request for crisis services to the Department within five (5) business days of the last day of providing the service. (7-1-26)

05. Contacts. Service coordination may include contacts with non-eligible individuals only when a contact directly relates to identifying the needs and supports to help a participant access services. (7-1-26)

06. Exclusions. Service coordination does not include activities that are integral components of another covered service, integral to administration of foster care programs, or integral to administration of another

program a participant is eligible for, except case management required by IDEA. (7-1-26)

07. Limitations. (7-1-26)

a. Providers may only deliver service coordination and direct services to the same Medicaid participant when they receive children's service~~s~~ coordination. ~~(7-1-26)~~( )

b. Service coordination cannot exceed four point five (4.5) hours per month, unless when accessing unused hours in an individual's current plan from previous months. ~~(7-1-26)~~( )

c. Reimbursement for annual assessment and plan development cannot exceed twelve (12) hours per year. (7-1-26)

d. Participants receiving hospice services or who live in hospitals, NFs, or ICF/IIDs are not eligible for service coordination. (7-1-26)

e. Participants are only eligible for one (1) type of service coordination. Participants who qualify for more than one (1) type, must choose one (1) that best meets their needs. (7-1-26)

f. Group services are not reimbursable. (7-1-26)

g. Missed appointments, attempted contacts, travel to provide services, leaving messages, scheduling appointments with a Medicaid-enrolled service coordinator, transporting participants, or documenting services are not reimbursable. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

634. SERVICE COORDINATION: PROVIDER QUALIFICATIONS AND DUTIES.

01. Provider Agreement. Providers must be employees or contractors of an agency. (7-1-26)

02. Supervision. Agencies must provide supervision to all providers by clearly documenting each supervisor's ability to address concerns about the services provided under their supervision. (7-1-26)

03. Supervisor Requirements. (7-1-26)

a. Master's Degree in a human services field, and twelve (12) months supervised work experience with the population served; or (7-1-26)

b. Bachelor's degree in a human services field or RN, and twenty-four (24) months of supervised work experience with the population served. ~~(7-1-26)~~( )

04. Service Coordinator Requirements. (7-1-26)

a. Bachelor's degree in a human services field or RN and twelve (12) months of supervised work experience with the population served. ~~(7-1-26)~~( )

b. Individuals meeting education or licensing requirements but without the required supervised work experience must be supervised by a qualified service coordinator while gaining the required work experience. (7-1-26)

05. Paraprofessional Requirements. Under the supervision of a qualified service coordinator, a paraprofessional can assist in the implementation of the plan. Paraprofessionals cannot conduct assessments, evaluations, person-centered planning meetings, 90-day face-to-face contacts, 180-day progress reviews, plan development, or plan changes. Paraprofessionals cannot be identified as a service coordinator on the plan and cannot

supervise service coordinators or other paraprofessionals. They must: (7-1-26)

a. Be eighteen (18) years or older with a high school diploma or equivalency and twelve (12) months supervised work experience with the population served; and (7-1-26)

b. Be able to read and write at a level necessary to process all paperwork and forms required for service delivery. (7-1-26)

06. Health, Safety, and Fraud Reporting. Providers must report any concerns about fraud, health, and safety to the appropriate governing agency and the Department. (7-1-26)

07. Case Loads. The total caseload of a provider must assure quality service delivery and participant satisfaction. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

800. PARTICIPANT ELIGIBILITY.

01. Eligibility Determination. ~~In order to choose the CDCS option, t~~The participant must ~~first be determined~~ Medicaid-eligible and ~~determined to~~ meet existing Adult DD waiver or Children's HCBS State Plan Option requirements to choose the CDCS option. ~~(7-1-26)~~( )

02. Participant Agreement. The participant, if able, and their legal representative, if ~~one exists~~ applicable, must agree ~~in writing using a Department approved form~~ to the following using a Department-approved form: ~~(7-1-26)~~( )

a. ~~Accept t~~The following CDCS guiding principles ~~for the CDCS option~~; ~~(7-1-26)~~( )

i. Freedom for the participant to make choices and plan their own life; (7-1-26)

ii. Authority for the participant to control resources allocated to them to acquire needed supports; (7-1-26)

iii. Opportunity for the participant to choose their own supports; (7-1-26)

iv. Responsibility for the participant to make choices and take responsibility for the result of those choices; and (7-1-26)

v. Shared responsibility between the participant and their community to help the participant become an involved and contributing member of that community. (7-1-26)

b. ~~Agree to meet the p~~Participant responsibilities ~~outlined in these rules~~; ~~(7-1-26)~~( )

c. ~~Take responsibility for and~~To accept responsibility, potential risks, and any ~~resulting~~ consequences~~,~~ for their support choices~~. If the participant is unable to give consent, this falls to their legal representative~~; and ~~(7-1-26)~~( )

d. ~~Acknowledge and f~~Follow ~~the~~ applicable HCBS rules. ~~(7-1-26)~~( )

~~**03. Involuntary Removal**. Participants involuntarily removed from the CDCS option will be ineligible for this option for a period of five (5) years. Re-application will be reviewed on a case-by-case basis and will include consideration of the previous conditions for removal.~~ ~~(7-1-26)~~

801. PARTICIPANT RESPONSIBILITIES.
With the assistance of the SB, and the legal representative, if ~~one exists~~ applicable, the participant is responsible for

the following: ~~(7-1-26)~~( )

01. Guiding Principles. Accepting and honoring the guiding principles for the CDCS ~~option defined in the participant agreement~~. ~~(7-1-26)~~( )

02. Person-Centered Planning. Directing the person-centered planning process ~~in order~~ to identify and document paid and unpaid support and service needs, wants, and preferences. ~~(7-1-26)~~( )

03. Rates. Negotiating ~~payment~~ rates for all ~~paid~~ community supports ~~they~~ the participant wants to purchase. ~~They must also ensure rates n~~Negotiated rates for supports and services ~~do~~ must not exceed the prevailing market rate, ~~are~~ be cost-effective ~~when comparing them~~ compared to reasonable alternatives, and ~~include the details~~ be detailed in ~~the~~ employment agreements. ~~(7-1-26)~~( )

04. Employment Agreements. Completing and implementing agreements for the FEA, the SB, and CSWs, and submitting the agreements to the FEA. ~~These a~~Agreements must: ( )

a. ~~b~~Be ~~submitted~~ on Department-approved forms ~~and must specifically~~ identifying the type of support ~~being~~ purchased, the rate negotiated ~~for the support~~, and the frequency and duration ~~of the scheduled support or service.~~; ( )

b. ~~The participant is responsible for ensuring that each employment agreement; e~~Clearly ~~identifies~~ identify the qualifications ~~needed to provide the~~ for a support or services ~~; includes~~ with a statement signed by the ~~hired worker~~ employee and participant that the ~~y~~ employee possesses the needed skills; ~~and the signature of the participant that verifies the same.~~ ( )

c. ~~Additionally, each employment agreement will include s~~Statements that; the participant is the employer ~~even though payment comes from a third party; employees are under the direction and control of the participant; services must be delivered consistent with the HCBS rules~~ and manager and no employer-related claims will be filed against the Department ~~.~~; ~~(7-1-26)~~( )

d. Assure services are delivered consistent with HCBS rules; ( )

e. Ensure documentation and workbook requirements are met; ( )

f. Include providing copies of plan and plan documents to service providers; ( )

g. Require updating and submitting the workbook to the Department with the annual plan; and ( )

h. Assure duties are provided in a respectful manner. ( )

05. SSP. Developing a comprehensive SSP, based on the information gathered during person-centered planning. (7-1-26)

06. Time Sheets and Invoices. ~~Reviewing and v~~Verifying that goods and services ~~being~~ billed were provided and indicating ~~that they approve of the bill~~ approval by signing the time sheet or invoice. ~~(7-1-26)~~( )

07. Quality Assurance and Improvement. Providing feedback ~~to the best of their ability regarding~~ of their satisfaction with ~~the~~ goods, ~~and~~ services, ~~they receive and the performance of their~~ and workers. ~~(7-1-26)~~( )

08. Sufficient Staffing. Hiring enough CSWs to ensure ~~services are rendered in a manner for the~~ health and safety ~~of the participant~~. ~~(7-1-26)~~( )

09. Required Classes. ~~The participant must attend classes on~~ Guide Training ~~by the Department~~ and FEA Training. ~~(7-1-26)~~( )

802. CONTINUATION OF ~~THE CONSUMER-DIRECTED COMMUNITY SUPPORTS (~~CDCS~~) OPTION.

These following requirements must be met or the Department may require the participant to discontinue may be removed from the CDCS option: (7-1-26)( )

01. Required Supports. The participant is willing to must work with a/an: ( )

a. SB.; and (7-1-26)( )

ab. The participant can only change FEA services by providing a written request can only be changed at the end of a fiscal quarter. Notice must be given in writing to their current FEA provider at least sixty (60) days in advance, and this change must occur at the end of a fiscal quarter. The request must include with the name of the new FEA chosen by the participant and provide the specific date of the change will occur. (7-1-26)

b. When a participant provides a written request to their current FEA provider to change to a different FEA provider, tThe current FEA provider must notify the participant of the specific date that the last payroll will run will occur at the end of the fiscal quarter. (7-1-26)( )

02. Adherence to the Participant's SSP. The participant's SSP is followed. (7-1-26)( )

03. Adherence to Risk and Safety Back-Up Plans. Back-up plans to manage risks and safety are followed. (7-1-26)( )

04. Health and Safety Choices. The participant's choices do not cannot directly endanger their health, welfare, and safety or endanger or harm others. (7-1-26)( )

05. Involuntary Removal. Participants involuntarily removed will be ineligible for CDCS for a period of five (5) years. Re-application will be reviewed on a case-by-case basis. ( )

803. CIRCLE OF SUPPORTS (COS).
The COS is unpaid, selected by the participant, and may include family members, friends, neighbors, co-workers, and other community members. When the participant's legal guardian is selected as a CSW under SDCS, the COS must include one (1) non-family member other than the SB. A family member is anyone related by blood or marriage.
( )

031. Selection and Duties. Members are selected by the participant and commit to work within the group to:. (7-1-26)( )

a. Promote and improve the life of the participant in accordance with the participant's choices and preferences; and (7-1-26)

b. Meet regularly to assist the participant to accomplish their expressed goals. (7-1-26)

012. FocusDuties. The participant's COS is built and operates with the primary goal of working meets regularly and works in the interest of the participant to promote and improve their life in accordance with their choices and preferences. The group's role is to COS gives and gets support for the participant and to develops an SSP, along with and on behalf of the participant, to help the participant accomplish their personal participant's goals. (7-1-26)( )

02. Members. A COS is unpaid, selected by the participant, and may include family members, friends, neighbors, co-workers, and other community members. For the SDCS, when the participant's legal guardian is selected as a CSW, the COS must include at least one (1) non-family member who is not the SB. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or legal guardian. (7-1-26)

043. Natural Supports. Natural supports may perform any duty of the SB as long as the SB still completes the except required responsibilities listed in these rules duties. Additionally,A qualified natural support may complete any CSW task may be performed by a qualified natural support person. Supports provided by a natural support person must be it is identified on the participant's SSP, but time worked does not need to be recorded or reported to the FEA. (7-1-26)( )

804. (RESERVED)

805. PAID ~~CONSUMER-DIRECTED COMMUNITY SUPPORTS (~~CDCS~~)~~.
Participants must purchase FMS and SB services to participate in ~~the~~ CDCS ~~option~~. Participants must purchase goods and community supports through ~~an~~ the FEA who is providing ~~the~~ FMS. All providers of CDCS must comply with the Idaho Medicaid Provider Handbook. ~~(7-1-26)~~( )

01. FMS. ~~The Department will enter into a provider agreement with q~~Qualified FEAs~~, as defined in these rules, to~~ may be providers of FMS for payroll and reporting functions ~~to~~ for participants ~~who choose the~~ on CDCS ~~option~~. ~~(7-1-26)~~( )

02. SB Services. ~~Services provided by a~~A qualified SB ~~to~~ assists the participant in making informed choices, participate~~e~~ing in a person-centered planning process, and become~~e~~ing skilled at managing their own supports, ~~such as~~ including negotiating and budgeting. ~~SBs have to apply for requalification annually.~~ ~~(7-1-26)~~( )

03. CSW Services. The CSWs provide identified supports ~~to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified CSW must obtain the applicable license or certification~~ they are qualified for. Identified supports include activities that address the participant's preference in ~~both FDCS and S~~CDCS, unless otherwise specified, for: ~~(7-1-26)~~( )

a. Job support for SDCS to help the participant secure, ~~and~~ maintain, or advance employment ~~or attain job advancement~~; ~~(7-1-26)~~( )

b. Personal support to ~~help the participant~~ maintain health, safety, and basic quality of life; ~~(7-1-26)~~( )

c. Relationship support to ~~help the participant~~ establish and maintain positive relationships ~~with immediate family members, friends, spouse, or others in order~~ to build a natural support network and community; ~~(7-1-26)~~( )

d. Emotional support to ~~help the participant~~ learn and practice behaviors consistent with their goals and wishes while minimizing interfering behaviors; ~~(7-1-26)~~( )

e. Learning support for SDCS to ~~help the participant~~ learn ~~new skills~~ or improve ~~existing~~ skills that relate to ~~their~~ identified goals; ~~(7-1-26)~~( )

f. Transportation ~~support~~ to help the participant accomplish their identified goals; and ~~(7-1-26)~~( )

g. Skilled nursing ~~support for SDCS~~ identified in the participant's plan ~~that is within the scope of the Nurse Practice Act and is~~ provided by an ~~licensed registered nurse (~~RN~~),~~ or ~~licensed practical nurse (~~ by an LPN~~)~~ under the supervision of an RN for SDCS~~, licensed to practice in Idaho~~. ~~(7-1-26)~~( )

04. ~~Medically Necessary~~Adaptive and Therapeutic Equipment. ~~Adaptive and therapeutic e~~Equipment ~~is medically necessary, meets a medical or accessibility need, and promotes increased independence. FDCS may substitute medical necessity for minimizing the participant's need for institutionalization~~ that meets HCBS requirements. Items may be covered when: ~~(7-1-26)~~( )

a. Not available through another source; (7-1-26)

b. Identified in the participant's plan; (7-1-26)

c. Recommended by the provider overseeing care; ( )

~~c~~d. Safe and effective ~~treatment that meets~~ evidence-based treatment ~~criteria~~; ~~(7-1-26)~~( )

~~d~~e. Optimal for the participant's health, safety and welfare; (7-1-26)

ef. Least costly alternative that reasonably meets the identified assessed need; and (7-1-26)( )

fg. For the sole benefit of the participant; and. (7-1-26)( )

g. Meets at least one (1) of the following: (7-1-26)

i. Assist the ability of the participant to remain in the community; (7-1-26)

ii. Enhance community inclusion and family involvement; and (7-1-26)

iii. Decrease dependency on formal support services. (7-1-26)

05. Limitations. Purchased items and Sservices have the following limitations: (7-1-26)( )

a. CDCS Purchased items and services mMust meet an assessed needs related to a developmental disability diagnosis. The use of CDCS and FDCS purchased items. ( )

b. Cannot be used by an individual other than the participant is prohibited. The following types of items or services are not covered: or for another's convenience. (7-1-26)( )

i. For the convenience of a caregiver; (7-1-26)

ii. Educational; (7-1-26)

iii. Recreational; or (7-1-26)

ivc. Cannot be Vvocational except unless pre-vocational and or job supports. (7-1-26)( )

bd. CDCS sServices may only be rendered by (1) staff to one (1) participant at a time. Staff may not: (7-1-26)( )

i. Render any other support, service, or supervision, paid or unpaid, to any other individual; or (7-1-26)

ii. Perform multiple services concurrently. (7-1-26)

ec. CDCS and FDCS tTransportation support is limited to one thousand eight hundred (1,800) miles annually, unless otherwise authorized. (7-1-26)( )

(BREAK IN CONTINUITY OF SECTIONS)

810. SUPPORT BROKER (SB) REQUIREMENTS AND LIMITATIONS.

01. SB Requirements. Individuals interested in becoming an SB must: (7-1-26)( )

a. Be eEighteen (18) years of age or older; (7-1-26)( )

b. Cannot be the participant's spouse, payee, conservator, or parent; ( )

bc. Have sSkills and knowledge typically gained by completing college courses or community classes or workshops that count toward a degree in the human services field; and (7-1-26)( )

d. Knowledge of services and resources in the DD fields; ( )

~~e~~c. ~~Have at least t~~Two (2) years verifiable experience with the target population~~; and~~ ~~(7-1-26)~~( )

f. SBs apply for requalification annually and submit requalification applications forty-five (45) days before current qualification expires; and ( )

~~d~~g. ~~Knowledge of services and resources in the developmental disabilities field~~Perform duties in a respectful manner. ~~(7-1-26)~~( )

02. Application Exam. Applicants ~~that~~ meeting the minimum requirements under this rule will receive training materials and resources to prepare for the application exam. Under FDCS, ~~children's~~ SBs must attend an initial training. Applicants must earn a score of seventy percent (70%) or higher to pass. Applicants may take the exam up to three (3) times. After the third ~~time~~ failure, ~~the~~ an applicant ~~will~~ cannot ~~be allowed to~~ retest for twelve (12) months from ~~the date of~~ the last exam. Applicants who pass ~~the exam~~, and meet all ~~other~~ requirements ~~under these rules, will be eligible to~~ can enter into a Medicaid Support Broker Agreement ~~with the Department~~. ~~(7-1-26)~~( )

03. ~~Required Ongoing~~Continuing Training. All SBs must document ~~a minimum of~~ twelve (12) hours per year of ongoing, relevant training in ~~the provision of~~ SB services. ~~Up to s~~Six (6) hours may be ~~obtained through~~ independent ~~self-~~study with~~.~~ ~~T~~the ~~remaining hours must consist of~~ remainder completed in a classroom ~~training~~ setting. ~~(7-1-26)~~( )

04. Termination. Terminated SBs are ineligible to provide services for five (5) years. Re-applications will be reviewed on a case-by-case basis. The Department may terminate the Medicaid Support Broker Agreement in accordance with Section 56-209h(6), Idaho Code, or when the SB: ~~(7-1-26)~~( )

a. ~~Is no longer able to~~Cannot pass a background check under these rules. ~~(7-1-26)~~( )

b. Puts the health or safety of the participant at risk ~~by failing to perform job duties under the employment agreement~~. ~~(7-1-26)~~( )

c. Does not receive and document the required ongoing training and requalification. (7-1-26)

05. Limitations. The SB ~~must~~: ~~(7-1-26)~~( )

a. ~~Not~~Cannot provide, or be employed by an agency that provides, CSW services to the same participant~~; and~~ ~~(7-1-26)~~( )

b. Is limited to three thousand one hundred twenty (3,120) hours per twelve (12) months unless otherwise authorized by the Department; ( )

~~b~~c. ~~For SDCS,~~Are required to meet the conflict-of-interest standards; and ~~(7-1-26)~~( )

~~c. SBs are limited to reimbursement for three thousand one hundred twenty (3,120) hours per calendar year across all participants served unless otherwise authorized by the Department.~~ ~~(7-1-26)~~

d. Is not reimbursed for missed appointments, attempted contacts, leaving messages, scheduling, transporting participants, or documenting services. ( )

06. Time Sheets and Invoices. SBs must submit accurate time sheets and invoices for reimbursement or be subject to recoupment. (7-1-26)

811. ~~SUPPORT BROKER (~~SB~~)~~ DUTIES AND RESPONSIBILITIES.

01. Initial Documentation. Prior to beginning employment for the participant, the SB must type and complete and submit to the participant, the packet of information provided by the FEA. This packet must include documentation of: (7-1-26)

a. SB application approval by the Department; (7-1-26)

b. A completed background check, including clearance; and (7-1-26)

c. A completed employment agreement in accordance with these rules. The negotiated rate must not exceed the maximum hourly rate for SB services established by the Department. (7-1-26)

02. Documentation. SB must complete ~~all~~ required documentation, ~~required by the Department~~ including ~~documentation of~~ the date, time in and out, and type of service provided and billed for. ~~All d~~Documentation for services will be retained by the SB for five (5) years. ~~(7-1-26)~~( )

03. Required Duties. SB services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the SB must: (7-1-26)

a. Assist in facilitating the person-centered planning process as directed by the participant and consistent with the HCBS rules; (7-1-26)

b. Develop a ~~written~~ typed SSP with the participant that includes the paid and unpaid supports that the participant needs and wants, related risks identified ~~with the participant's wants and preferences~~, and a comprehensive ~~risk~~ plan for each potential risk that includes at least three (3) backup plans should a support fail. The SSP must be authorized by the Department; ~~(7-1-26)~~( )

c. Assist the participant to monitor and review their budget; (7-1-26)

d. Submit documentation regarding the participant's satisfaction with identified supports as requested by the Department; (7-1-26)

e. Adhere to Department quality assurance measures; (7-1-26)

f. Assist the participant to complete the annual re-determination process as needed, including updating the SSP and submitting it to the Department for authorization; (7-1-26)

g. Assist the participant, as needed, to meet the participant responsibilities outlined in these rules and assist the participant, as needed, to protect their own health and safety; (7-1-26)

h. Complete the Department-approved background check waiver form when a participant chooses to waive the background check requirement for a CSW. Completion of this form requires that the SB provide education and counseling to the participant and their COS regarding the risks of waiving a background check and assist with detailing the rationale for waiving the background check and how health and safety will be protected; (7-1-26)

i. Assist children enrolled in the FDCS option as they transition to adult DD services; (7-1-26)

j. Sign the written SSP; (7-1-26)

k. Report concerns or discrepancies in documentation and services provided to the Department immediately. (7-1-26)

04. Additional Duties. In addition to the required SB duties, each SB must be able to provide the following services when requested by the participant: (7-1-26)

a. Assist the participant to develop and maintain a COS; (7-1-26)

b. Help the participant learn and implement the skills needed to recruit, hire, and monitor community supports; (7-1-26)

c. Assist the participant to negotiate rates for paid CSW; (7-1-26)

d. Maintain documentation of supports provided by each CSW and participant's satisfaction with these supports; (7-1-26)

e. Assist the participant to monitor community supports; (7-1-26)

f. Assist the participant to resolve employment-related problems; (7-1-26)

g. Assist the participant to identify and develop community resources to meet specific needs; and (7-1-26)

h. Assist the participant in distributing the SSP to CSWs or vendors. (7-1-26)

05. Termination of Services. If ~~an~~ SB decides to end services ~~with a participant~~, they must give the participant and the Department at least thirty (30) days' written notice prior to terminating ~~services~~. The SB must assist the participant ~~to~~ in identifying a new SB ~~and provide the participant and new SB with a written service transition plan by the date of termination. The transition plan must include an updated SSP that reflects current supports being received, details about the existing CSWs, and unmet needs~~. Participants can change SB at any time. ~~(7-1-26)~~( )

812. – 814. (RESERVED)

815. COMMUNITY SUPPORT WORKER (CSW) LIMITATIONS.
A paid CSW ~~must~~ cannot be the spouse of the participant, or the parent or legal guardian if the participant is a minor child. CSWs cannot supplant the role of the parent or legal guardian, be paid to fulfill any of their legal obligations, or be paid to perform or assist the participant in meeting the participant's responsibilities. ~~For FDCS, they must: 1) not be the parent or legal guardian of the participant; 2)~~ CSWs must avoid any conflict of interest by not having direct control over the participant's choices,; ~~3) avoid any conflict of interest; and 4) not~~ or receiveing undue financial benefit from the participant's choices. ~~(7-1-26)~~( )

~~**01. Work Limit**. A CSW for SDCS cannot work more than twelve (12) hours in a day without authorization from the Department.~~ ~~(7-1-26)~~

0~~2~~1. SDCS. ~~SDCS~~ CSWs cannot be younger than seventeen (17) years of age except ~~when~~ for sixteen (16) year olds providing chore services ~~and then may be sixteen (16) years of age~~. CSWs cannot work more than twelve (12) hours a day without authorization from the Department. ~~(7-1-26)~~( )

0~~3~~2. FDCS. A paid CSW may provide unskilled supervision, but cannot: (7-1-26)

~~**a.** Supplant the role of the parent or legal guardian;~~ ~~(7-1-26)~~

~~**b.** Be paid to fulfill any obligations that the parent or legal guardian is legally responsible to fulfill for their child;~~ ~~(7-1-26)~~

~~**c**~~**a.** Be under the age of sixteen (16) years old; or (7-1-26)

~~**d**~~**b.** Be under the age of eighteen (18) and ~~Transport or be~~ left alone with ~~a~~ the participant ~~under the age of eighteen (18) years old~~. ~~(7-1-26)~~( )

816. PAID COMMUNITY SUPPORT WORKER (CSW) DUTIES AND RESPONSIBILITIES.

01. Initial Documentation. Prior to providing goods or services to the participant, the CSW must type and complete the packet of information provided by the FEA and submit it to the FEA. When the CSW will be providing services, this packet must include documentation of: ~~(7-1-26)~~( )

a. A completed background check, including clearance or documentation that this requirement has been waived by the participant in accordance with these rules. Individuals listed on a state or federal provider

exclusion list must not provide paid supports; (7-1-26)

b. A completed employment agreement with the participant in accordance with these rules. If the CSW is provided through an agency, the employment agreement must include the specific individual who will provide the support and the agency's responsibility for tax-related obligations; (7-1-26)

c. Current state licensure or certification if identified support requires certification or licensure; and (7-1-26)

d. A statement of qualifications to provide supports identified in the employment agreement. (7-1-26)

02. Employment Agreement. The CSW must deliver supports as defined in the employment agreement. (7-1-26)

03. ~~Documentation~~Time Sheets and Invoices. The CSW must~~ track and document ;~~ ( )

a. Accurately record the time required to perform the identified supports~~ and accurately report the time~~ on~~ the~~ time sheets provided by the participant's FEA, or complete an invoice~~ that reflects the type of~~ with the support~~ provided, the~~ and date~~ the support was~~ provided, and the negotiated rate~~ for the support provided,~~ for submission to the participant's FEA. Failure~~ to do so~~ may result in recoupment. ~~(7-1-26)~~( )

~~04~~**b.** ~~**Time Sheets and Invoices**. The CSW must obtain the signature of the participant or their legal representative on~~Sign each completed time sheet or invoice and obtain the signature of the participant or their legal representative prior~~ to submitting the document~~ submission to the FEA~~ for payment~~. Time sheets or invoices that are not signed~~ by the CSW and the participant or their legal representative~~ as required will not be paid. Time sheets submitted and approved by the participant through the FEA electronic system meet these signature requirements. ~~(7-1-26)~~( )

817. – 819. (RESERVED)

820. SUPPORT AND SPENDING PLAN (SSP) DEVELOPMENT.

01. Requirements. The participant,~~ with the help of~~ assisted by their SB, must develop a comprehensive SSP based on the information gathered during person-centered planning~~. The person-centered planning process must~~ that meets all HCBS requirements. The SSP is not valid until authorized by the Department. The SSP must include: ~~(7-1-26)~~( )

a. The participant's preferences and interests by identifying all~~ the~~ supports and services~~, both paid and non-paid,~~ the participant wants and needs to live successfully in their community. ~~(7-1-26)~~( )

b. Paid or non-paid supports that focus on the participant's wants, needs, and goals in the following areas: (7-1-26)

i. Personal health and safety including quality of life preferences; (7-1-26)

~~ii. Securing and maintaining employment for SDCS; (7-1-26)~~

ii~~i~~. Establishing and maintaining relationships with family, friends, and others to build the participant's COS; (7-1-26)

iii. For SDCS: ( )

(1) Securing and maintaining employment; ( )

~~iv.~~(2) Learning and practicing ways to recognize and minimize interfering behaviors~~ for SDCS~~; and ~~(7-1-26)~~( )

~~v.~~(3) Learning new or improving existing skills to accomplish set goals ~~for SDCS~~. ~~(7-1-26)~~( )

c. Support needs such as: (7-1-26)

i. Medical care and medicine for SDCS; (7-1-26)

ii. Skilled care including therapies or nursing needs for SDCS; (7-1-26)

iii. Community involvement; (7-1-26)

iv. Preferred living arrangements including possible roommate(s); and (7-1-26)

v. Response to emergencies including access to emergency assistance and care. ( )

d. ~~This plan should reflect t~~The wants, preferences, and needs of the whole person, regardless of payment source, if any. ~~(7-1-26)~~( )

~~d~~**e.** Risks or safety concerns in relation to the identified support needs ~~on the participant's SSP~~. The plan must be active and specify the goods, supports or services needed to address the risks for each issue listed, with at least three (3) backup plans to implement for each identified risk ~~to implement in case the need arises~~; ~~(7-1-26)~~( )

~~e~~**f.** Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; and ~~(7-1-26)~~( )

~~f~~**g.** The budgeted amounts planned in relation to the participant's needed supports. The FEA will compare and match the employment agreements to the appropriate support categories identified on the initial SSP prior to processing time sheets or invoices for payment~~; and~~. ~~(7-1-26)~~( )

02. Limitations. (7-1-26)

a. Traditional Adult DD waiver services, rehabilitative services, or habilitative services ~~must~~ cannot be purchased under the CDCS option. ~~Because a participant cannot receive these traditional services and CDCS at the same time, t~~The participant, the SB, and the Department must all work together to ensure that there is no interruption of required services when moving between traditional services and the CDCS option; ~~(7-1-26)~~( )

b. ~~Traditional Adult DD waiver services, rehabilitative, or habilitative services must not be purchased under the CDCS option. Because a participant cannot receive these traditional services and CDCS at the same time, the participant, the SB, and the Department must all work together to ensure that there is no interruption of required services when moving between traditional services and the CDCS option~~Paid community supports cannot be provided in a group setting with recipients of traditional Adult DD waiver services, rehabilitative, or habilitative services. This does not prevent a CDCS participant from choosing to live with recipients of these services; ~~(7-1-26)~~( )

c. All paid community supports must fit into a type of community support described in these rules. The SSP must not include supports or services that are illegal, that adversely affect the health and safety of the participant, ~~that do harm,~~ or that violate or infringe on the rights of others; ~~(7-1-26)~~( )

d. SSPs that exceed the approved budget amount will not be authorized; and (7-1-26)

e. Time sheets or invoices exceeding the authorized SSP amount will not be paid by the FEA. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

829. QUALITY ASSURANCE.
The Department will implement quality assurance processes to ensure: access to CDCS; participant direction of SSPs and services; participant choice and direction of providers; safe and effective environments; and participant satisfaction with services and outcomes. (7-1-26)

~~**01. Adult Services Outcome Review (ASOR).** Each participant will have the opportunity to provide feedback to the Department about their satisfaction with consumer-directed services utilizing the ASOR. (7-1-26)~~

~~**02. Adult Service Outcomes.** Participant experience information will be gathered at least annually in an interview by the Department, and will address the following participant outcomes: (7-1-26)~~

~~**a.** Access to care; (7-1-26)~~

~~**b.** Choice and control; (7-1-26)~~

~~**c.** Respect and dignity; (7-1-26)~~

~~**d.** Community integration; and (7-1-26)~~

~~**e.** Inclusion. (7-1-26)~~

0~~3~~1. **CSWs and SBs Quality Assurance Activities**. CSWs and SBs must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records. (7-1-26)

042. **Participant Choice of Paid CSW**. Paid CSWs must be selected by the participant, or their chosen representative, and meet the qualifications identified in this rule. (7-1-26)

0~~5~~3. **Complaint Reporting and Tracking Process**. The Department will maintain a complaint reporting and tracking process to ensure participants, workers, and other supports have the opportunity to readily report instances of abuse, neglect, exploitation, or other complaints regarding the HCBS program. (7-1-26)

0~~6~~4. **Quality Oversight Committee**. A Quality Oversight Committee consisting of participants, family members, community providers, and Department designees will review information and data collected from the quality assurance processes to formulate recommendations for program improvement. (7-1-26)

0~~7~~5. **Quarterly Quality Assurance Reviews**. On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved SSP. (7-1-26)

0~~8~~6. **HCBS Specific Reviews**. The Department will implement quality assurance and improvement activities to ensure compliance with HCBS rules. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

833. FISCAL EMPLOYER AGENT (FEA): CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS).

01. Federal Tax ID Requirement. The FEA must obtain a separate Federal Employer Identification Number (FEIN) specifically to file tax forms and to make tax payments on behalf of program participants. In addition, the provider must: (7-1-26)

a. Maintain copies of the participant's FEIN, IRS FEIN notification letter, and Form SS-4 Request for

FEIN in the participant's file. (7-1-26)

b. Retire participant's FEIN when the participant is no longer an employer under CDCS. (7-1-26)

02. Requirement to Report Irregular Activities or Practices. The provider must report to the Department any facts regarding irregular activities or practices that may conflict with federal or state rules and regulations. (7-1-26)

03. Policies and Procedures. The provider must maintain a current manual containing comprehensive policies and procedures. The provider must submit the manual and any updates to the Department for approval. (7-1-26)

04. Key Contact Person. The provider must provide a key contact person and at least (2) two other people for backup who are responsible for answering calls and responding to e-mails from Department staff and responding to the Department within one (1) business day. ~~(7-1-26)~~( )

05. Face-to-Face Transitional Participant Enrollment. The provider must conduct face-to-face transitional participant enrollment sessions in group settings or with individual participants in their homes or other designated locations. The provider must work with the regional Department staff to coordinate and conduct enrollment sessions. The face-to-face encounter may occur via virtual care. (7-1-26)

06. SFTP Site. The provider must provide an SFTP site for the Department to access with the capability of allowing participants and their employees to access individual specific information such as time cards and account statements. The site must be user name and password protected. The provider must have the site accessible to the Department upon commencement of the readiness review. (7-1-26)

07. Required IRS Forms. The provider must prepare, submit, and revoke the following IRS forms in accordance with IRS requirements and must maintain relevant documentation in each participant's file including: (7-1-26)

a. IRS Form 2678; (7-1-26)

b. IRS Approval Letter; (7-1-26)

c. IRS Form 2678 revocation process; (7-1-26)

d. Initial IRS Form 2848; and (7-1-26)

e. Renewal IRS Form 2848. (7-1-26)

08. Requirement to Obtain and Revoke Power of Attorney. The provider must obtain an Idaho State Tax Commission Power of Attorney (ID-POA) from each participant it represents, revoke the Form ID-POA when the provider no longer represents the participant, and maintain the relevant documentation in each participant's file. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

837. FISCAL EMPLOYER AGENT (FEA): PAYMENT PROCESS.

01. Process Payroll. The provider must process payroll, including time sheets and taxes, in accordance with the participant's SSP. The payroll process must include: (7-1-26)

a. Payment of employer and withholding taxes to State Tax Commission and Internal Revenue Service. (7-1-26)

b. Payment of invoices to vendors. (7-1-26)

c. Management of participant budget funds as per authorized SSP. (7-1-26)

d. Garnishment of wages as per court orders. (7-1-26)

e. Preparation of year-end federal and state tax forms. (7-1-26)

f. Payment of worker's compensation insurance premiums. (7-1-26)

02. Requirement to Track and Log Time Sheet Billing Errors. The provider must track and log time sheet billing errors or time sheets that cannot be paid due to late arrival, missing, or erroneous information. The provider must notify the employee and participant within one (1) business day of when errors are identified on the time sheets. (7-1-26)

03. Requirement to Track and Log Improperly Cashed or Improperly Issued Checks. The provider must track and log occurrences of improperly cashed or improperly issued checks and stop payment on checks when necessary. The provider must reissue lost, stolen, or improperly issued checks at no expense to the participant or the Department within fourteen (14) calendar days of when the error occurred. (7-1-26)

04. Process Employee Payments. The provider must verify documentation and process payments via the preference of employees. The employee payment process includes: (7-1-26)

a. Receipt of time cards from employees via mail, fax, or website by specified due dates. (7-1-26)

b. Review time cards for accuracy and verify that time cards contain the following information: ~~(7-1-26)~~( )

i. Employer name and ID number. (7-1-26)

ii. Employee name and ID number. (7-1-26)

iii. Hours of work. (7-1-26)

iv. Code for service. (7-1-26)

c. Match codes to employment agreement to verify rate of pay. (7-1-26)

d. Verify that rate of pay multiplied by the hours worked per each pay period is equal to the gross pay. (7-1-26)

e. Calculate all taxes and other withholding. (7-1-26)

f. Pay employees every two (2) weeks or semi-monthly. (7-1-26)

g. Contact participant and representative to resolve problems with time cards or other documents prior to pay-date, if possible. ~~(7-1-26)~~( )

h. Maintain an electronic complaint log of payroll issues and resolutions. (7-1-26)

i. Verification of any money remaining in each participant's budget and specific service category prior to issuing payment. (7-1-26)

05. Process Vendor Payments. When participants submit requests for payment to vendors, the provider must: (7-1-26)

a. Review, and maintain on file, the vendor payment request with attached voided vendor receipt

submitted by the participant. (7-1-26)

b. Ensure item or payment is authorized on the participant's SSP. (7-1-26)

c. Issue payment to the vendor on the same schedule as payroll. (7-1-26)

06. Process Independent Contractor or Outside Agency Payments. When the participant hires an independent contractor or outside agency, in accordance with the SSP, the provider must: (7-1-26)

a. Obtain a W-9 from the contractor or agency. (7-1-26)

b. Review, and maintain on file, the independent contractor or agency agreement submitted by the participant. (7-1-26)

c. Review, and maintain on file, the independent contractor or agency invoice for services submitted by the participant. (7-1-26)

d. Ensure service or payment is authorized on the SSP. (7-1-26)

e. Issue payment directly to the independent contractor or agency. (7-1-26)

07. End-of-Year Processing. For purposes of end-of-year processing, the provider must maintain relevant documentation and must: (7-1-26)

a. Refund over-collected Federal Insurance Contributions Act tax (FICA) to applicable employees, or to state government; (7-1-26)

b. Prepare, file, and distribute IRS Form W-2 for each employee; (7-1-26)

c. Prepare and file IRS Form W-3 for each participant represented; (7-1-26)

d. Prepare and file State Form 967 for state income taxes withheld for each employer; (7-1-26)

e. Report and pay any Unclaimed Property per Idaho State Tax Commission rules; and (7-1-26)

f. Report and pay all state and federal unemployment insurance premiums. (7-1-26)

08. Transition to New FEA. The following items must be addressed if a participant transitions to a new FEA provider. For the purposes of a smooth transition between FEA providers, the two (2) providers must work closely with one (1) another to transfer the participant from the services one (1) is no longer providing to the services the other is providing. The following items must be transferred: (7-1-26)

a. Participant's FEIN and FEIN mailing address. (7-1-26)

b. IRS Form 2678 Agent/Payer Authorization. (7-1-26)

c. Depositing taxes and filing report. This includes Federal and State tax withholdings and Federal Unemployment Tax Act tax (FUTA). (7-1-26)

d. Participant's FUTA Liability Status. (7-1-26)

e. FICA and FUTA Exemption Status of Participant Employees. (7-1-26)

f. Unemployment Insurance (U/I). (7-1-26)

g. Unemployment Insurance Experience Rate and Taxable Wage Base. (7-1-26)

h. State Unemployment Insurance Liability Status of the Participant and Exempt Employees. (7-1-26)

i. Unemployment Insurance Filing and Depositing. (7-1-26)

j. State Income Tax - Account Number Agent Authorization, Filing and Depositing. (7-1-26)

k. Budget Authorization - Authorized Services Spent and Remaining, Authorized Providers, and Authorized Provider Rates. (7-1-26)

l. Participant's Representative, and Participant's Employee and Provider Demographic Information. (7-1-26)

m. Participant's Employee New Hire Reporting, Liens and Garnishments, and Tax and Other Information. (7-1-26)

n. Participant's Independent contract and other information. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

842. FISCAL EMPLOYER AGENT (FEA): PERFORMANCE METRICS.

01. Readiness Review. Complete a readiness review conducted by the Department with the provider prior to providing FEA services. (7-1-26)

a. The Department will access SFTP site for review of provider documents and conduct ~~an~~ onsite reviews. ~~(7-1-26)~~( )

02. Fiscal Support and Financial Consultation. The provider must provide each participant with fiscal support and financial consultation. (7-1-26)

03. Quarterly Reconciliation. Each fiscal quarter after initiating service, the provider must reconcile its Medicaid Billing Report to a zero-dollar ($0) balance with the Medicaid Bureau of Financial Operations. The provider has ninety (90) days to comply with reconciling each participant's SSP balance to a zero dollar ($0) balance with Medicaid's reimbursements. The provider must: (7-1-26)

a. Show one hundred percent (100%) compliance with the required quarterly reconciliation of the Medicaid Billing Report. (7-1-26)

b. Notify the Department immediately if an issue is identified that may result in the provider not reconciling the Medicaid Billing Report. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to reconcile within ninety (90) days after the end of each quarter, the provider will be penalized fifty dollars ($50) each week until the provider has reconciled with Medicaid to a zero dollar ($0) balance. (7-1-26)

04. Cash Management Plan. Each provider's cash management plan must equal one point five (1.5) times the monthly payroll cycle amount and can be forms of liquid cash and lines of credit. For example, if a provider's current payroll minimum has averaged one hundred thousand dollars ($100,000) per payroll cycle, the provider would be required to have one hundred fifty thousand dollars ($150,000) in a cash management plan. The Department must be on the notification list if any lines of credit are decreased in the amount accessible or terminated. The expectation is to provide a seamless payroll cycle to the participant, without loss of pay to their employees. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

970. MANAGED CARE FOR DUALS.
Medicaid benefit plan, referred to collectively as the Medicare/Medicaid Coordinated Plan (MMCP), for dual-eligible participants to enroll in a managed care organization (MCO) offering Idaho Medicaid Plus (IMPlus) or MMCP health plans. ~~(7-1-26)~~( )

971. MANAGED CARE FOR DUALS: DEFINITIONS.

01. Dual Eligible. Participants with enhanced plan benefits, except those from Breast and Cervical Cancer eligibility, who are also enrolled in both Medicare Parts A and B. (7-1-26)

02. Evidence of Coverage. Contract between an MCO and the participant detailing covered services. (7-1-26)

03. Fully Integrated Dual- Eligible Special Needs Plan (FIDE-SNP). Health plan option that fully integrates Medicare and Medicaid benefits under a single MAO. ~~(7-1-26)~~( )

04. Idaho Medicaid Plus (IMPlus). MMCP health plan option where most Medicaid covered services are provided by one MCO. (7-1-26)

05. Medicare Advantage Organizations (MAOs). MCO approved by CMS to offer Medicare Advantage Plans. (7-1-26)

06. Medicare Advantage Plan. Private health plans contracted with CMS to provide Medicare Parts A, B, and D benefits. (7-1-26)

07. Medicare/Medicaid Coordinated Plan (MMCP). MMCP health plan option integrating Medicare and Medicaid covered services under a FIDE-SNP provided by one MCO. (7-1-26)

08. Passive Enrollment. Process where the Department assigns a participant to an IMPlus plan unless the participant actively enrolls in MMCP or opts out of IMPlus. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

973. MANAGED CARE FOR DUALS: ELIGIBILITY AND ENROLLMENT.
Only dual eligible participants over age twenty-one (21) may enroll in IMPlus or MMCP plans. Enrollment requirements vary by county. (7-1-26)

01. Exclusions. Individuals receiving Adult DD 1915(c) waiver benefits are excluded from IMPlus enrollment. (7-1-26)

02. Exemptions. Tribal members and pregnant women are exempt from mandatory enrollment requirements but may voluntarily enroll in MMCP plan options when available in their county of residence and retain the right to disenroll at any time. (7-1-26)

03. Voluntary Counties. Participants residing in a county with at least one (1) participating MCO may voluntarily enroll ~~in MMCP under~~ with an MCO offering any available IMPlus or MMCP plan and may terminate from a plan at any time. Coverage continues until the end of the month of termination. Once disenrolled, MMIS reenrolls participants under fee-for-service Medicaid. ~~(7-1-26)~~( )

04. Mandatory Counties. Participants without an exclusion and residing in a county with two (2) or more active MCOs must enroll in either an IMPlus or MMCP plan. The Department assigns participants who fail to choose a plan into an IMPlus MCO. (7-1-26)

05. Passive Counties. The Department enrolls participants without an exclusion and residing in a

county with only one (1) participating MCO into the MCO's IMPlus plan unless they enroll in the MCO's MMCP plan or opt out by contacting the Department. These participants may opt out of IMPlus at any time. (7-1-26)

974. MANAGED CARE FOR DUALS: COVERAGE AND LIMITATIONS.

01. Coverage. All ~~MMCP~~ dual plan options include Medicaid-only Basic and Enhanced Plan services provided by Medicaid providers that are not MAOs. Medicaid may cover additional services not included in the MCO's Evidence of Coverage. MAOs providing MMCP plans may limit or expand MAO-covered services, including Medicare Parts A, B, and D benefits or supplemental services unavailable on Medicaid or Medicare, as detailed in the contract and Evidence of Coverage. ~~(7-1-26)~~( )

02. Limitations. Services not included in the Evidence of Coverage are carved out and provided under fee-for-service Medicaid or other contracted entities. (7-1-26)

975. MANAGED CARE FOR DUALS: GOLD CARD.

01. Card Eligibility. Providers enrolled with an MAO and MCO can receive a gold card, as described in Subsection 005.31. ( )

975~~5~~6. – 979. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

985. LIENS AND ESTATE RECOVERY: LIMITATIONS AND EXCLUSIONS.

01. Limitations on Estate Claims. Limits on the Department's claim against the assets of a deceased participant or spouse are subject to Sections 56-218 and 56-218A, Idaho Code. A claim against the estate of a spouse of a participant is limited to the value of the assets of the estate that had been, at any time after October 1, 1993, community property, or the deceased participant's share of the separate property, and jointly owned property.(7-1-26)

02. Expenses Deducted From Estate. The following expenses may be deducted from the available assets to determine the amount available to satisfy the Department's claim: (7-1-26)

a. Funeral expenses reasonably necessary for burial or cremation services approved on a case-by-case basis at the discretion of the Department. (7-1-26)

b. Administrative expenses of the estate may be deducted in accordance with Section 56-218, Idaho Code. (7-1-26)

03. Interest on Claim. The Department's claim does not bear interest ~~until the claim becomes recoverable. Interest on the claim accrues at the legal rate of interest~~ except as otherwise provided by statute or agreement. ~~(7-1-26)~~( )

04. Excluded Land. Restricted allotted land, owned by a deceased participant who was an enrolled member of a federally recognized American Indian tribe, or eligible for tribal membership, which cannot be sold or transferred without permission from the Indian tribe or an agency of the Federal Government, will not be subject to estate recovery. (7-1-26)

05. Certain Life Estates. The value of a life estate owned by a Medicaid participant, or their spouse will not be subject to estate recovery if: (7-1-26)

a. Neither the Medicaid participant or their spouse ever owned the remainder interest; or (7-1-26)

b. The life estate was created prior to July 1, 1995. (7-1-26)

06. Marriage Settlement Agreement or Other Such Agreement. A marriage settlement agreement or other such agreement that separates assets for a married couple does not eliminate the debt against the estate of the deceased participant or the spouse. Transfers under a marriage settlement agreement or other such agreement may be voided if not for adequate consideration. (7-1-26)

07. Undue Hardship Exception. It is not considered undue hardship when family members anticipate or expect an inheritance or will be inconvenienced economically by the lack of an inheritance. (7-1-26)

a. An applicant for an undue hardship waiver must be family with a beneficial interest in the estate and must apply for the waiver within ninety (90) days of the death of the participant or within thirty (30) days of receiving notice of the Department's claim, whichever is later. The filing of a claim by the Department in a probate proceeding constitutes notice to all heirs. (7-1-26)

b. Undue hardship waivers will be considered in the following circumstances: (7-1-26)

i. The estate subject to recovery is income-producing property that provides the sole source of support for heirs; or (7-1-26)

ii. Payment of the Department's claim would cause heirs of the deceased participant to be eligible for public assistance; or (7-1-26)

iii. The Department's claim is less than five hundred dollars ($500) or the total assets of the entire estate are less than five hundred dollars ($500), excluding trust accounts or other bank accounts. (7-1-26)

c. Any claim may be waived or deferred by the Department, partially or fully, because of undue hardship. An undue hardship does not exist if action taken by the participant prior to their death, or by their legal representative, divested or diverted assets from the estate. The Department grants undue hardship waivers on a case-by-case basis upon review of all facts and circumstances, including any action taken to diminish assets available for estate recovery or to circumvent estate recovery. (7-1-26)

08. Set Aside of Transfers. Transfers of real or personal property of the participant without adequate consideration are voidable and may be set aside by the district court whether the asset transfer resulted, or could have resulted, in a period of ineligibility. (7-1-26)

09. Release of Estate Claims. The Department may enter into a written agreement with an authorized representative to release the Department's claim when the claim is paid within thirty-six (36) monthly payments or less. ( )

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-2601

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 15-5-308(5), 15-5-311(5), 15-5-316, 39-1105, 39-1107, 39-1111, 39-1113, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 56-202(b), 56-203(2), 56-204A, 56-1007, 56-2501, 56-2502, 66-404(7), and Chapter 27, Title 56, Idaho Code.

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

Thursday, October 15, 2026 **1:00 p.m. (MT)**
In Person: **450 W. State Street, 10th Floor** **Boise ID 83720 Conference Rm 10B** **Virtual:** **Meeting link: https://teams.microsoft.com/meet/252885756209284?p=z7Hiqp1OizSEoCdqwh** **Meeting ID: 252 885 756 209 284** **Passcode: Up7iB2TJ** **Dial in by phone** **1 972-454-4077 United States, Dallas** **Boise 1-208-609-5034** **Phone conference ID: 580 680 046#**

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

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

This proposed rule updates IDAPA 16.05.06 to implement changes enacted by H.B. 494, which went into effect July 1, 2026, and is codified at Chapter 27, Title 56, Idaho Code. That bill enacted provisions required by the FBI to be in statute, including the requirement for fingerprint background check, the list of types of individuals who are required to undergo a background check, and the scope of those able to access confidential information. The chapter was streamlined to remove those items required to be codified in statute, while keeping provisions, like the list of disqualifying crimes, in rule to allow for swift conformance with legislative changes in the criminal code.

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

There are no changes to fees.

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

There is no 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.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Idaho Administrative Bulletin, Vol. 26-7, page 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: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Estela Cabrera at DHWRules@dhw.idaho.gov or (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 October 28, 2026.

DATED this 7th day of October, 2026.

Jared Larsen
Chief of Staff
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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0506-2601
(Only Those Sections With Amendments Are Shown.)

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

000. LEGAL AUTHORITY.
Sections 15-5-308(5), 15-5-311(5), 15-5-316, 39-1105, 39-1107, 39-1111, 39-1113, 39-1210(10), 39-211(4), 39-3520, 39-5604, 39-9109, 56-202(b), 56-203(2), 56-204A, 56-1007, 56-2501, 56-2502, 56-2503, 56-2504, 56-2505, 56-2506, 56-2507, ~~39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109,~~ 66-404(7), ~~15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code,~~ and ~~Tittle 56,~~ Chapter 27, Title 56, Idaho Code, authorize the Department to conduct criminal history and background checks. US Public Law 92-544, authorizes the Department to submit fingerprints ~~and receive responses from the Federal Bureau of Investigations for the processing of background checks~~ to the Idaho State Police to process background checks through the state Criminal History Repository and the FBI. IRS Publication 1075 requires the Department to submit fingerprints and establish a personnel screening program for its employees who have access to the Federal Tax Information File as part of their duties. 42 USC Section 9858f requires the Department to check specific records for federal child-care programs. ~~(3-28-23)~~( )

001. POLICY.
The Department will conduct a fingerprint-based criminal history and background check on individuals who complete a criminal history application. The criminal history applicant is required to disclose any pertinent information regarding crimes or findings that would disqualify the individual from providing care or services to children or vulnerable adults. The Department may obtain information ~~for these~~ needed to conduct criminal history

and background checks ~~from the following sources:~~ pursuant to Title 56, Chapter 27, Idaho Code. ~~(3-28-23)~~( )

~~**01.** Federal Bureau of Investigation. (3-28-23)~~

~~**02.** Idaho State Police Bureau of Criminal Identification. (3-28-23)~~

~~**03.** Any state or federal Child Protection Registry. (3-28-23)~~

~~**04.** Any state or federal Adult Protection Registry. (3-28-23)~~

~~**05.** Any state Sexual Offender Registry. (3-28-23)~~

~~**06.** Office of Inspector General List of Excluded Individuals and Entities. (3-28-23)~~

~~**07.** Idaho Department of Transportation Driving Records. (3-28-23)~~

~~**08.** Nurse Aide Registry. (3-28-23)~~

~~**09.** Other states and jurisdictions records and findings. (3-28-23)~~

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter ~~of rules~~, the following terms apply in addition to definitions contained in Chapter 27, Title 56, Idaho Code: ~~(3-28-23)~~( )

01. Agency. An administrative subdivision of government or an establishment engaged in doing business for another entity. This term is synonymous with the term "employer". (3-28-23)

~~**02. Application**. An individual's request for a background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. (3-28-23)~~

0~~3~~2. **Background Check Unit (BCU)**. The Department's Unit responsible for processing fingerprint-based background checks, ~~and~~ issuing clearances or denials according to these rules, and for providing results of Idaho Child Protection Central Registry checks to any agency that requires one to comply with applicable federal, state, or local law. ~~(3-28-23)~~( )

~~**04. Clearance**. A clearance is a document designated by the Department as the official result of a completed background check with no disqualifying crimes or relevant records found. (3-28-23)~~

0~~5~~3. **Conviction**. An individual is considered to have been convicted of a criminal offense when: (3-28-23)

a. A judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, tribal, or local court of competent jurisdiction; ~~(3-28-23)~~( )

b. There is a finding of guilt against the individual by any federal, state, military, tribal, or local court of competent jurisdiction; ~~(3-28-23)~~( )

c. A plea of guilty ~~or~~, nolo contendere ~~by the individual~~, or a plea by which the individual consents to entry of a judgment of conviction while maintaining innocence (an Alford plea) has been accepted by any federal, state, military, tribal, or local court; ~~(3-28-23)~~( )

d. An individual has entered into or participated in first offender, deferred adjudication, or another arrangement or program where judgment of conviction has been withheld. This includes when ~~:~~ an individual participates in any treatment or specialty court, including but not limited to treatment, mental health, or drug courts.

~~(3-28-23)~~( )

~~i. An individual participates in a drug court; or~~ ~~(3-28-23)~~

~~ii. An individual participates in a mental health court.~~ ~~(3-28-23)~~

~~**06. Criminal History and Background Check**. A criminal history and background check is a fingerprint based check of an individual's criminal record and other relevant records. Also referred to as "background check".~~ ~~(3-28-23)~~

~~**07. Denial**. A denial of clearance is issued by the Department when an individual has a relevant record or disqualifying crime under Sections 200 and 210 of these rules.~~ ~~(3-28-23)~~

0~~8~~4. **Department**. The Idaho Department of Health and Welfare~~ or its designee~~. ~~(3-28-23)~~( )

~~**09. Direct Patient Access Employee**. Any individual who has access to a patient or resident of a long-term care provider or facility whether through employment or contract, and who has duties or performs tasks that involve (or may involve) one-on-one (1:1) contact with a patient or resident or has access to their personal belongings. Volunteers are not considered a Direct Patient Access employee of a long-term care provider or facility unless volunteers are required to undergo a background check under the rules applicable to that specific type of facility or provider.~~ ~~(3-28-23)~~

~~**10. Disqualifying Crime**. A disqualifying crime is a designated crime under Section 210 of these rules that results in the unconditional denial of an applicant.~~ ~~(3-28-23)~~

~~11~~05. **Employer**. An entity that hires people to work in exchange for compensation. This term is synonymous with the term "agency". (3-28-23)

~~12~~06. **Enhanced ~~Clearance~~ Background Check**. A~~ clearance issued~~ background check completed by the Department that includes a search of child protection registries in states or jurisdictions in which an applicant resided during the preceding five (5) years. ~~(3-28-23)~~( )

~~13~~07. **Relevant Record**. A record that is found in a search of criminal records or registries checked by the Department~~ under Tittle 56, Chapter 27~~ pursuant to Chapter 27, Title 56, Idaho Code, and these rules. ~~(3-28-23)~~( )

011. -- 049. (RESERVED)

050. FEES AND COSTS FOR BACKGROUND CHECKS.
Except where prohibited by law to charge a fee, ~~T~~the fee for a Department fingerprint-based background check is up to seventy dollars ($70) for an individual. The applicant is responsible for the fee and any costs of the background check incurred by the Department that are paid to other public agencies or judicial or law enforcement jurisdictions to conduct a background check consistent with law.~~ The Department may waive the fee for certain individuals. An applicant is responsible for any additional costs incurred by the Department paid to agencies, judicial, or law enforcement jurisdictions in other states.~~ The Department will collect the fee and any additional~~ funds to cover its~~ costs from the applicant. ~~(3-28-23)~~( )

051. -- 059. (RESERVED)

060. AGENCY RESPONSIBILITIES.

01. Initial Registration. Agencies required to obtain Department background checks on individuals must register with the Department and receive an agency identification number before applications are processed or accessed. (3-28-23)

02. Change in Name or Ownership. An agency or facility must: (3-28-23)

a. If acquired by another entity, the new ownership will register as a new agency and provide contact information to obtain a new agency identification number and website access within thirty (30) calendar days of acquisition. New ownership occurs when the agency obtains a new federal Employer Identification Number with the Internal Revenue Service. (3-28-23)

b. The previous ownership will settle any background check debt with the Department prior to the completion of the acquisition. The Department reserves the right to not acknowledge the transfer to the new ownership if the previous ownership background check debt is not settled. (3-28-23)

c. If there is a change in name or location, the agency will update their profile on the Department website with their new name, location, and contact information within thirty (30) calendar days of the change. (3-28-23)

03. Applicant Screening. The agency must screen applicant background check disclosures that are submitted to the Department website to determine the suitability of the applicant for employment or program participation. If an applicant discloses a disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment or program participation should be made during the initial application review. (3-28-23)

04. Time Frames For Compliance. The agency is responsible for ensuring the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. (3-28-23)

05. Review Background Check Results. The agency is responsible for reviewing the results of the background check even if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The agency must complete this review within fourteen (14) calendar days of the clearance being accessible on the Department's website. (3-28-23)

06. Employment Determination. The Department does not make the final fitness determination for employment or program participation for the applicant. The agency will determine the ability or risk of the individual to provide care or services to children or vulnerable adults after reviewing the applicant's background check results. (3-28-23)

07. Discovery of Criminal Convictions or Disqualifying Records After Clearance is Issued. After a clearance is issued, if the agency discovers that the applicant may no longer be eligible to hold a Department clearance due to the existence of either a conviction for a disqualifying offense, or a relevant record listed in these rules, the agency is required to report their discovery to the ~~Background Check Unit~~ BCU. The Department may compel the applicant to be processed for a new background check under Subsection 195.04 of these rules if it deems it appropriate to do so. ~~(3-28-23)~~( )

08. Retention of Records. The agency will retain all applicant background check documentation as provided in Subsection 300.02 of these rules. (3-28-23)

061. -- 069. (RESERVED)

070. NONCOMPLIANCE WITH THESE RULES.
The ~~Department~~ BCU will report an agency's noncompliance with these rules to the applicable licensing or certification ~~unit~~ authority or appropriate program integrity unit. ~~(3-28-23)~~( )

071. -- 099. (RESERVED)

100. INDIVIDUALS SUBJECT TO A BACKGROUND CHECK.
~~The following are persons or classes of individuals who are required by statute, or Department rules, to complete a background check~~ The specific classes of individuals, licenses, certifications, professions, or roles that require a criminal history and background check, as well as any employees, contractors, or volunteers in roles with direct access to children, the elderly, or vulnerable adults can be found in Idaho Code Chapter 27, Title 56-2504.
~~(3-28-23)~~( )

Required Classes	Idaho Code and IDAPA Chapter(s)
01. Adoptive Parent Applicants	IDAPA 16.04.18, "Children's Agencies and Residential Licensing" IDAPA 16.06.01, "Child and Family Services" IDAPA 16.06.02, "Child Care and Foster Care Licensing"
02. Certified Family Homes	Section 39-3520, Idaho Code IDAPA 16.03.19, "Certified Family Homes" IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
03. Children's Agency Facility Staff	IDAPA 16.04.18, "Children's Agencies and Residential Licensing"
04. Children's Residential Care Facilities	Section 39-1210, Idaho Code IDAPA 16.04.18, "Children's Agencies and Residential Licensing"
05. Children's Therapeutic Outdoor Programs	Section 39-1208, Idaho Code IDAPA 16.04.18, "Children's Agencies and Residential Licensing"
06. Citizen Review Panel Members	Public health district volunteers who must comply with Section 16-1647, Idaho Code, "Citizen Review Panels – Child Protection Legislative Review Panel"
07. Contracted Non-Emergency Medical Transportation Providers	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
08. Court Appointed Guardians and Conservators	Title 15, Chapter 5, Idaho Code, & Title 66, Chapter 4, Idaho Code. Court required guardian and conservator background checks are not provided Department clearances under Subsection 180.01 of these rules
09. Designated Examiners and Dispositioners	IDAPA 16.07.39, "Designated Examiners and Dispositioners"
10. Developmental Disabilities Agencies	IDAPA 16.03.21, "Developmental Disabilities Agencies" (DDA) IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
11. Emergency Medical Services (EMS)	IDAPA 16.01.05, "Emergency Medical Services (EMS) – Education, Instructor, and Examination Requirements" IDAPA 16.01.07, "Emergency Medical Services (EMS) – Personnel Licensing Requirements"
12. High Risk Providers of Medicaid	IDAPA 16.03.09, "Medicaid Basic Plan Benefits" The Medicaid Provider Handbook
13. Home and Community Based Services (HCBS)	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" IDAPA 16.04.17, "Residential Habilitation Agencies"
14. Home Health Agencies	IDAPA 16.03.07, "Home Health Agencies"
15. Idaho Behavioral Health Plan (IBHP)	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
16. Idaho Child Care Program (ICCP)	IDAPA 16.06.12, "Idaho Child Care Program" (ICCP)
17. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	IDAPA 16.03.11, "Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)"
18. Licensed Foster Care	Section 39-1211, Idaho Code IDAPA 16.06.02, "Child Care and Foster Care Licensing"
19. Licensed Day Care	Sections 39-1105, 39-1113, and 39-1114, Idaho Code IDAPA 16.06.02, "Child Care and Foster Care Licensing"

Required Classes	Idaho Code and IDAPA Chapter(s)
20. Mental Health Services	IDAPA 16.07.33, "Adult Mental Health Services" IDAPA 16.07.37, "Children's Mental Health Services"
21. Personal Assistance Agencies	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
22. Personal Care Service Providers	Section 39-5604, Idaho Code IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
23. Residential Assisted Living Facilities	IDAPA 16.03.22, "Residential Assisted Living Facilities"
24. Service Coordinators and Paraprofessional Providers	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
25. Skilled Nursing Facilities	IDAPA 16.03.02, "Skilled Nursing Facilities"
26. Substance Use Disorders Services	IDAPA 16.07.17, "Substance Use Disorders Services"
27. Support Brokers and Community Support Workers	IDAPA 16.03.13, "Consumer Directed Services"

(3-28-23)

101. DEPARTMENT INDIVIDUALS SUBJECT TO A BACKGROUND CHECK.
The following Department employees, contractors, and volunteers are subject to background checks. (3-28-23)

01. Employees, Contractors, and Volunteers. Employees, contractors, and volunteers providing direct care services or who have access to children or vulnerable adults under Section 39-5302(10), Idaho Code. (3-28-23)

02. Employees of Bureau of Compliance. (3-28-23)

a. Fraud Investigators; (3-28-23)

b. Utilization Review Analysts; and (3-28-23)

c. Background Check UnitBCU staff. (3-28-23)( )

03. Employees at State Institutions. All employees of the following state-funded institutions; (3-28-23)

a. Southwest Idaho Treatment Center, Nampa, Idaho; (3-28-23)

b. State Hospital North, Orofino, Idaho; (3-28-23)

c. State Hospital South, Blackfoot, Idaho; and (3-28-23)

d. State Hospital West, Nampa, Idaho. (3-28-23)

04. Emergency Medical Services (EMS) Employees. EMS communication specialists and managers. (3-28-23)

05. Other Employees. Other Department employees as determined by the Director. (3-28-23)

102. -- 119. (RESERVED)

120. APPLICATION FOR A BACKGROUND CHECK.
Individuals who are subject to a background check must submit their application on the Department website. (3-28-23)

01. Application Form. To request a background check, the applicant must apply on the Department website and provide all the information requested in the Department-provided forms. The individual's application authorizes the Department to obtain information and release it under applicable state and federal law. (3-28-23)

02. Disclosures. The individual must disclose any conviction, pending charges or indictment for crimes, and furnish a description of the crime and the particulars on the application. The individual must also disclose any notice by a state or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint, and any other information as required. (3-28-23)

03. Failure to Disclose Information. (3-28-23)

a. An applicant who falsifies or fails to disclose information on the application, may be subject to prosecution under Sections 18-3203, 18-5401, and 56-227A, Idaho Code. (3-28-23)

b. ~~An~~If an applicant required to obtain a background check ~~under Section 126 of these rules that~~ knowingly makes a materially false statement in connection ~~to~~ with their background check ~~will receive an unconditional denial as provided in Section 200 of these rules~~, the BCU will revoke clearance, require a new background check, or close the application. ~~(3-28-23)~~( )

121. -- 124. (RESERVED)

125. IDAHO CHILD PROTECTION CENTRAL REGISTRY CHECKS.
The ~~Department~~ BCU will provide the results of ~~a check of the~~ an Idaho Child Protection Central Registry check to any agency that requires it to comply with applicable federal, state, or local laws. ~~The Department will process those requests under this rule.~~ ~~(3-28-23)~~( )

01. Request for an Idaho Child Protection Central Registry Check. A request for an Idaho Child Protection Central Registry check must be submitted on the Department form by mail, facsimile transmission, or e-mail attachment. (3-28-23)

02. Fee Amount. The fee for an Idaho Child Protection Central Registry check is twenty dollars ($20) for each subject checked. (3-28-23)

03. Department Response. A response will be returned to the agency initiating the request for the check within fourteen (14) days of receipt of the request. The Department's response will be limited to confirmation whether the subject is listed in the Registry. The requestor may contact the Department's Division of Family and Community Services if additional information is needed. (3-28-23)

126. APPLICANTS RECEIVING A DEPARTMENT ENHANCED ~~CLEARANCE~~ BACKGROUND CHECK.
The following classes of individuals are required to provide their previous residence information for the preceding five (5) years in their application for a background check. If the applicant's previous background check included checks of out-of-state Central Child Protection Registries within the previous six (6) months, the applicant is not required to complete them again. (3-28-23)

01. Adoptive Parent Applicants. (3-28-23)

02. Behavioral Health Programs. (3-28-23)

03. Certified Family Homes. (3-28-23)

04. Children's Agency Facility Staff. (3-28-23)

05. Children's Residential Care Facilities. (3-28-23)

06. Children's Therapeutic Outdoor Programs. (3-28-23)

07. Citizen Review Panel Members. (3-28-23)

08. Idaho Child Care Program (ICCP). (3-28-23)

09. Licensed Foster Care. (3-28-23)

10. Licensed Day Care. (3-28-23)

11. Mental Health Services. (3-28-23)

12. Substance Use Disorders Services. (3-28-23)

127. -- 139. (RESERVED)

140. SUBMISSION OF FINGERPRINTS.
Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department under Section 150 of these rules to process a background check request. (3-28-23)

01. Department Fingerprinting Locations. The Department will collect the individual's fingerprints at designated locations listed on the Department's website. The applicant may contact the ~~Background Check Unit~~ BCU for additional guidance. ~~(3-28-23)~~( )

02. Submitting Fingerprints by Mail. Individuals who elect to have fingerprints collected by a local law enforcement agency or by the applicant's agency must use a federal FD-258 Applicant fingerprint card. The fingerprint card must be completed using the instructions provided, signed, and mailed along with the applicable fee to the address indicated on the Department's website. The applicant fingerprints and fees must be received by the Department in the time frame required in Section 150 of these rules. (3-28-23)

03. Submission of Reprints. If an individual's submitted fingerprints are deemed unreadable by the Department, Idaho State Police, or the FBI, the applicant must comply with a request for reprints from the Department within fifteen (15) calendar days from the date of the notice. Failure to comply with the request will result in the applicant being unavailable to provide services. (3-28-23)

141. -- 149. (RESERVED)

150. TIME FRAME FOR SUBMITTING FINGERPRINTS.

01. Time Frame. The applicant fingerprints must be received by the Department within twenty-one (21) days from the date of the application submission in the Department background check system whether the fingerprints are sent by mail or collected at a Department fingerprinting location. If the Department does not receive the applicant fingerprints within sixty (60) calendar days from the background check submission date on the Department website, the applicant must complete a new application. (3-28-23)

02. No Extension of Time Frame. The Department will not extend the twenty-one ~~(21) -~~day (21) time frame, unless the agency provides just cause. If the Department does not extend the time frame, the applicant must be removed from any situation where they can have direct access to a vulnerable person or their belongings.
~~(3-28-23)~~( )

151. -- 159. (RESERVED)

160. WITHDRAWAL OF APPLICATION.
An individual may withdraw their application for a background check at any time. An individual who withdraws their application cannot provide services, or receive licensure or certification. Fees paid for the cost of the background check are non-refundable ~~once the fingerprints have been submitted by the Department to the Idaho State Police~~.
~~(3-28-23)~~( )

161. -- 169. (RESERVED)

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE BACKGROUND CHECK.
An individual is available to provide services on the day the application is submitted on the Department website, has been reviewed by the hiring agency, and ~~while pending completion of the background check under this rule. The individual must have submitted their application and fingerprints in the time frame required in Section 150 of these rules to provide services~~ continuing while their background check is pending. To provide services, the individual must have submitted both their application and fingerprints within the timeframe required in Section 150 of these rules. ~~(3-28-23)~~( )

01. Employees of Providers, Contractors, Bureau of Emergency Medical Services (EMS), or the Department. An individual is available to provide services on a provisional basis at the discretion of the agency or EMS Bureau if no disqualifying crimes or relevant records are disclosed on the application. The agency must review the application for any disqualifying crimes under Section 210 of these rules or other relevant records under Section 200 of these rules. The agency determines whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. (3-28-23)

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: (3-28-23)

a. Adoption or foster care applicants and adults in the home; (3-28-23)

b. Certification or licensure applicants; (3-28-23)

i. Certified family homes; (3-28-23)

ii. Licensed Emergency Medical Services applicants; and (3-28-23)

iii. Department-licensed child-care providers. ~~(3-28-23)~~( )

171. -- 179. (RESERVED)

180. BACKGROUND CHECK RESULTS.
The Department will issue a clearance or denial once the background check is completed. (3-28-23)

01. Results of Background Checks. The results can be accessed on the Department's website. (3-28-23)

02. Findings for Court-Required Criminal History and Background Checks. ~~Under Tittle 56, Chapter 27, Idaho Code,~~ Pursuant to Chapter 27, Title 56, Idaho Code, the Department will provide findings of a court-ordered background check to individuals appointed by the court under Title 15, Chapter 5, or Title 66, Chapter 4, Idaho Code. ~~(3-28-23)~~( )

03. Department Employees That Have Access to the Internal Revenue Service Federal Tax Information File. Employees assigned to the Self-Reliance Division that access the Internal Revenue Service Federal Tax Information file as part of their duties will be processed for a background check by the ~~Background Check Unit~~ BCU. The Self-Reliance Division will make a fitness determination based on its own policies. ~~(3-28-23)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

190. BACKGROUND CHECK CLEARANCE.

~~**01. Clearance**. A clearance is issued by the Department once all relevant records and findings have been reviewed and the Department has cleared the applicant. The clearance will be published on the Department's website and is available for printing to the individual and their agency.~~ ~~(3-28-23)~~

0~~2~~1. Clearance Types. An applicant required to pass a background check must receive a clearance as provided below: (3-28-23)

a. An enhanced ~~clearance~~ background check is required for each of the classes listed in Section 126 of these rules and requires searches from states and jurisdictions where the applicant has resided in the previous five (5) years. A relevant record on any child protection registry will result in a denial under Subsection 200.01 of these rules. An applicant who applies to work in any of these classes must receive or have an enhanced background check clearance. ~~(3-28-23)~~( )

b. An applicant not listed in Section 126 of these rules will receive a clearance provided they do not disclose or have a relevant record under Subsections 200.01.a., 200.01.c., 200.01.d., 200.01.e., 200.01.f., or 200.01.g., or a disqualifying crime under Subsections 210.01, 210.02, or 210.03 of these rules. (3-28-23)

0~~3~~2. Revocation of Clearance. A clearance may be revoked for the following: (3-28-23)

a. The individual fails to comply with the Department's request to submit to a new background check under Subsection 195.04 of these rules. (3-28-23)

b. The individual completes a new background check and is found to have a criminal or relevant record that results in an "~~i~~Inability to ~~p~~Proceed" action or in a denial under Sections 200 or 270 of these rules. ~~(3-28-23)~~( )

c. The applicant withdraws their application from the background check process ~~under~~ according to Section 160 of these rules. ~~(3-28-23)~~( )

d. The background check fees are not paid~~, or are insufficient to cover the costs of the background check~~ in full. ~~(3-28-23)~~( )

191. -- 194. (RESERVED)

195. USE OF PREVIOUSLY COMPLETED BACKGROUND CHECKS.
The agency is responsible for confirming that the applicant has received ~~a~~ background check clearance ~~under~~ in accordance with Section 190 of these rules. Once a clearance is issued by the Department, verifiable continuous employment of the applicant with the same agency eliminates the requirement for a new background check. ~~(3-28-23)~~( )

01. New Background Check. Any individual required to have a background check under these rules must complete a new application, including fingerprints when: (3-28-23)

a. An applicant is accepting employment with a new agency, and their last Department background check was completed more than three (3) years prior to their employment date; or (3-28-23)

b. An applicant is applying for licensure or certification with the Department. and their last Department background check was completed more than three (3) years prior to their employment date or licensure application date; or (3-28-23)

c. An applicant's affiliation ends, is later re-affiliated to the same agency, and the applicant background check is older than three (3) years at the time of the re-affiliation. (3-28-23)

02. Use of Background Check Within Three Years of Completion. Any agency may use a Department background check clearance obtained under these rules if: (3-28-23)

a. The individual has received a Department's background check clearance within three (3) years from the date of employment; (3-28-23)

b. Prior to allowing the individual to provide services, the agency must affiliate itself to the individual's clearance through the Department's website by having the agency's identification number added to the individual's background check; and (3-28-23)

c. The agency completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and no disqualifying crimes are found. (3-28-23)

i. The action must be initiated by the agency within thirty (30) calendar days of obtaining access to the individual's background check clearance issued by the Department; and (3-28-23)

ii. The agency must be able to provide proof of this action by maintaining a copy of the records required in Subsections 195.02.a and 195.02.c of these rules. (3-28-23)

d. An applicant's affiliation ends, is later re-affiliated to the same agency, and the applicant background check was completed less than three (3) years from the time of the re-affiliation, the provisions of Subsections 195.02.b and 195.02.c of these rules apply. (3-28-23)

e. An agency not listed in Section 126 of these rules may use an individual's Department standard background check clearance or enhanced background check clearance that was obtained within three (3) years from date of employment. ~~(3-28-23)~~( )

f. An individual with a current clearance that is not ~~Enhanced~~ an enhanced background check clearance but is completed within three (3) years from date of employment, who seeks to affiliate themselves to a new agency identified in Section 126 of these rules, must apply for a new background check to obtain an ~~E~~enhanced background check clearance. An agency or employer identified in Subsections 126.08 and 126.10 of these rules may not hire an employee with a clearance obtained prior to January 1, 2020, unless the ~~E~~enhanced background check clearance complies with the requirements found in 42 USC Section 9858. ~~(3-28-23)~~( )

03. Agency Discretion. Any agency or employer, at its discretion, may require an individual to complete a Department background check at any time, even if the individual has received a background check clearance within three (3) years. (3-28-23)

04. Department Discretion. The Department may require a background check of any individual covered under these rules at any time. Any individual required to complete a background check under these rules must be fingerprinted within fourteen (14) days from the date of notification by the Department. (3-28-23)

196. -- 199. (RESERVED)

200. UNCONDITIONAL DENIAL.
An individual who receives an unconditional denial is not available to provide services, have access, or be licensed or certified by the Department. (3-28-23)

01. Reasons for an Unconditional Denial. Unconditional denials are issued for: (3-28-23)

a. Disqualifying crimes under Section 210 of these rules; (3-28-23)

b. A relevant record on any Child Protection Registry for the classes of individuals under Section 126 of these rules; (3-28-23)

c. A relevant record on the Idaho Child Protection Central Registry with a Level one (1) or Level two (2) designation for all other applicants covered by these rules; (3-28-23)

d. A relevant record on the Nurse Aide Registry; (3-28-23)

e. A relevant record on either the state or federal sex offender registries; (3-28-23)

f. A relevant record on the U. S. Health and Human Services, Office of the Inspector General List of Excluded Individuals and Entities (LEIE); (3-28-23)

g. A relevant record on the state Medicaid Exclusion List: or (3-28-23)

h. A materially false statement made knowingly in connection ~~to~~ with the Department's background check application ~~for the classes of individuals under Section 126 of these rules~~ will result in a five-year disqualification period for the applicant. ~~(3-28-23)~~( )

02. Issuance of an Unconditional Denial. The Department, generally, will issue an unconditional denial within fourteen (14) days of completion of a background check. ~~(3-28-23)~~( )

~~**03. Challenge of Department's Unconditional Denial**. An individual has twenty-eight (28) days from the date the unconditional denial is issued to challenge the Department's unconditional denial. The individual must submit the challenge in writing and provide court records or other information which demonstrates the Department's unconditional denial is incorrect. These documents must be filed with the Background Check Unit. (3-28-23)~~

~~**a.** If the individual challenges the Department's unconditional denial, the Department will review the court records, documents, and other information filed by the individual. The Department will issue a decision within thirty (30) days of the receipt of the challenge. The Department's decision will be a final order under IDAPA 62.01.01, "Idaho Rules of Administrative Procedure," and Office of Administrative Hearings General Order No. 1. (3-28-23)~~

~~**b.** If the individual does not challenge the Department's unconditional denial within thirty (30) days, it becomes a final order of the Department under IDAPA 62.01.01, "Idaho Rules of Administrative Procedure," and Office of Administrative Hearings General Order No. 1. (3-28-23)~~

~~**04. Appeal of an Unconditional Denial**. Following a challenge of the Department's unconditional denial, an individual may appeal the Department's decision under IDAPA 62.01.01, "Idaho Rules of Administrative Procedure," and Office of Administrative Hearings General Order No. 1. The request to appeal an unconditional denial does not stay the action of the Department. (3-28-23)~~

201. -- 209. (RESERVED)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.
An individual is not available to provide direct care or services when the individual discloses or the background check reveals a conviction for a disqualifying crime on their record under this rule. (3-28-23)

01. Disqualifying Crimes. The disqualifying crimes under this rule, or any substantially conforming foreign criminal violation, will result in an unconditional denial being issued. (3-28-23)

a. Crimes against vulnerable adults: (3-28-23)

i. Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (3-28-23)

ii. Abandoning a vulnerable adult, as defined in Section 18-1505A, Idaho Code; (3-28-23)

iii. Sexual abuse and exploitation of a vulnerable adult, as defined in Section 18-1505B, Idaho Code. (3-28-23)

b. Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; (3-28-23)

c. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6604, Idaho Code;

(3-28-23)

d. Hiring, employing, or using a minor to engage in certain acts, as defined in Section 18-1517A, Idaho Code; (3-28-23)

e. Human trafficking, as defined in Sections 18-8602 and 18-8603, Idaho Code; (3-28-23)

f. Incest, as defined in Section 18-6601, Idaho Code; (3-28-23)

g. Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (3-28-23)

h. Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (3-28-23)

i. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (3-28-23)

j. Mayhem, as defined in Section 18-5001, Idaho Code; (3-28-23)

k. Manslaughter: (3-28-23)

i. Voluntary manslaughter, as defined in Section 18-4006(1) Idaho Code; (3-28-23)

ii. Involuntary manslaughter, as defined in Section 18-4006(2), Idaho Code; (3-28-23)

iii. Felony vehicular manslaughter, as defined in Section 18-4006(3)(a) and (b), Idaho Code; (3-28-23)

l. Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; (3-28-23)

m. Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (3-28-23)

n. Rape, as defined in Section 18-6101, Idaho Code; (3-28-23)

o. Robbery, as defined in Section 18-6501, Idaho Code; (3-28-23)

p. Felony stalking, as defined in Section 18-7905, Idaho Code; (3-28-23)

q. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (3-28-23)

r. Ritualized abuse of a child, as defined in Section 18-1506A, Idaho Code; (3-28-23)

s. Female Genital Mutilation, as defined in Section 18-1506B, Idaho Code; (3-28-23)

t. Sexual abuse or exploitation of a child, as defined in Sections 18-1506, Idaho Code; (3-28-23)

u. Felony sexual exploitation of a child, as defined in Section 18-1507, Idaho Code; (3-28-23)

v. Sexual battery of a minor child under sixteen (16) or seventeen (17) years of age, as defined in Section 18-1508A, Idaho Code; (3-28-23)

w. Video voyeurism, as defined in Section 18-6605, Idaho Code; (3-28-23)

x. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (3-28-23)

y. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (3-28-23)

z. Any felony punishable by death or life imprisonment; (3-28-23)

aa. Attempted strangulation, as defined in Section 18-923, Idaho Code; (3-28-23)

bb. Felony domestic violence, as defined in Section 18-918, Idaho Code; (3-28-23)

cc. Battery with intent to commit a serious felony, as defined in Section 18-911, Idaho Code; (3-28-23)

dd. Assault with intent to commit a serious felony, as defined in Section 18-909, Idaho Code; or (3-28-23)

ee. Aggravated sexual battery, as defined in Section 18-925, Idaho Code; (3-28-23)

ff. Sexual abuse of an animal, as defined in Section 18-6602, Idaho Code; (3-28-23)

gg. Sexual abuse of human remains, as defined in Section 18-6603, Idaho Code; or (3-28-23)

hh. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-304, 18-305, 18-306, 18-307, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. (3-28-23)

ii. Aggravated, first degree, second degree and third degree arson, sections 18-801 through 18-805, Idaho Code, for the classes of individuals, agency, or employer identified in Subsections 126.08 and 126.10 of this rule; ( )

jj. The infamous crime against nature, a felony offense formerly codified in Chapter 66, Title 18, Idaho Code, and whose conviction is entered before July 1, 2022, for the classes of individuals, agency, or employer identified in Subsections 126.08 and 126.10 of this rule; ( )

kk. A felony drug-related offense committed during the preceding five (5) years, for the classes of individuals, agency, or employer identified in Subsection 126.08 and 126.10 of this rule. ( )

02. Disqualifying Five-Year Crimes. The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for five (5) years from the date of the conviction for the crimes listed in this rule, or any substantially conforming foreign criminal violation: (3-28-23)

a. Any felony not described in Subsection 210.01, or 210.03 of this rule; (3-28-23)

b. Misdemeanor domestic violence, as defined in Section 18-918, Idaho Code; (3-28-23)

c. Failure to report abuse, abandonment or neglect of a child, as defined in Section 16-1605, Idaho Code; (3-28-23)

d. Misdemeanor forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 through 18-3128, Idaho Code; (3-28-23)

e. Misdemeanor forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (3-28-23)

f. Misdemeanor identity theft, as defined in Section 18-3126, Idaho Code; (3-28-23)

g. Misdemeanor insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (3-28-23)

h. Public assistance fraud, as defined in Sections 56-227, 56-227A, 56-227D, 56-227E and 56-227F, Idaho Code; (3-28-23)

i. Sexual exploitation of a child by electronic means, felony or misdemeanor, as defined in Section 18-1507A, Idaho Code; (3-28-23)

j. Stalking in the second degree, as defined in Section 18-7906, Idaho Code; (3-28-23)

k. Misdemeanor vehicular manslaughter, as defined in Section 18-4006(3)(c), Idaho Code; (3-28-23)

l. Sexual exploitation by a medical care provider, as defined in Section 18-919, Idaho Code; (3-28-23)

m. Sexual Battery, as defined in Section 18-924, Idaho Code; (3-28-23)

n. Operating a certified family home without certification, as defined in Section 39-3528, Idaho Code; ~~or~~ ~~(3-28-23)~~( )

o. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-204, 18-205, 18-304, 18-306, 18-307, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying five (5) year crimes~~.~~; or ~~(3-28-23)~~( )

p. Burglary, section 18-1401, Idaho Code, for the classes of individuals, agency, or employer identified in Subsection 126.08 and 126.10 of this rule. ( )

03. Disqualifying Three-Year Crimes. The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for three (3) years from the date of the conviction for the crimes listed in this rule, or any substantially conforming foreign criminal violation: (3-28-23)

a. A controlled substance manufacture, delivery, or possession with intent to deliver or manufacture offense, as defined in Section 37-2732, Idaho Code, felony; (3-28-23)

b. A controlled substance paraphernalia offense, as defined in Section 37-2734B, Idaho Code, felony; or (3-28-23)

c. Operating a motor vehicle under the influence of alcohol, drugs, or any other intoxicating substance offense, as defined in Section 18-8004, Idaho Code, felony. (3-28-23)

04. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (3-28-23)

a. A withheld judgment; (3-28-23)

b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-28-23)

c. An order under Section 19-2604, Idaho Code, or other equivalent state law; or (3-28-23)

d. A sealed record. (3-28-23)

05. Challenge of Department's Unconditional Denial. An individual has twenty-eight (28) days from the date the unconditional denial is issued to challenge the Department's unconditional denial. The individual must submit the challenge in writing and provide court records or other information which demonstrates the Department's unconditional denial is incorrect. These documents must be filed with the BCU. ( )

a. If the individual challenges the Department's unconditional denial, the Department will review the court records, documents, and other information filed by the individual. The Department will issue a decision within thirty (30) days of receipt of the challenge. The Department's decision will be a final order. ( )

b. If the individual does not challenge the Department's unconditional denial within thirty (30) days, it becomes a final order from the Department. ( )

06. Appeal of an Unconditional Denial. Following a challenge of the Department's unconditional denial, an individual may appeal the Department's decision. The request to appeal an unconditional denial does not stay the action of the Department. ( )

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2601

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 16-1601, 16-1629, 16-1623, 16-2001, 16-2102, 16-2406, and 16-2423, 39-1209 through 1211, 39-7501, 56-202(b), 56-204A, 56-204B, 56-803, 56-1003, 56-1004, 56-1004A, 56-2703, and 56-1007, Idaho Code.

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

Wednesday, October 14, 2026 **1:00 p.m. (MT)**
In Person: **450 W. State Street, 10th Floor** **Boise ID 83720** **Conference Rm 10B** **Virtual:** **Meeting link: https://teams.microsoft.com/meet/26808110472827?p=zQTQL8UUYqjJEsCuvS** **Meeting ID: 268 081 104 728 27** **Passcode: R2xv77QJ** **Dial in by phone** **1 972-454-4077 United States, Dallas** **Boise 1-208-609-5034** **Phone conference ID: 853 083 164#**

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:

Chapter 16.06.01 is being updated to align with statute due to legislation passed during the 2026 legislative session pursuant to SB 1257, HB 245 (2025), and HB 558. The rulemaking updates sections affected by enacted legislation such as the age of eligible young adults to access extended foster care, visitation between parents and children placed in foster care, the usage of death benefits for children in foster care, and general non-substantive language cleanup.

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

There is no changes to fees.

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

There is no 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.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Idaho Administrative Bulletin, Vol. 26-7 page 75.

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 Estela Cabrera at DHWRules@dhw.idaho.gov or (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 October 28, 2026.

DATED this 7th day of October, 2026.

Jared Larsen
Chief of Staff
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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0601-2601
(Only Those Sections With Amendments Are Shown.)

16.06.01 – CHILD AND FAMILY SERVICES

000. LEGAL AUTHORITY.
These rules are established to govern the statewide provision of services associated with child protection, foster care, and adoption under the following statutes: Sections 16-1601, 16-1629, 16-1623, 16-2001, 16-2102, 16-2406, and 16-2423, ~~and 16-2433,~~ 39-1209 through 1211, ~~39-5603,~~ 39-7501, 56-202(b), 56-204A, 56-204B, 56-803, 56-1003, 56-1004A, 56-2703 and 56-1007, Idaho Code, and Tittle 56, Chapter 27, Idaho Code. ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

002. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History and Background Check. All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, Certified Adoption Professionals, volunteers, and others assigned to programs that involve direct contact with

children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in ~~IDAPA 16.05.06, "Criminal History and Background Checks."~~ Section 56-2704, Idaho Code. ~~(3-15-22)~~( )

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.
For the purposes of these rules, the following terms are used: (3-15-22)

01. Adoption Services. Protective services through which a child is provided with a permanent home, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (3-15-22)

02. Alternate Care. Temporary living arrangements, when necessary for a child to leave their own home, through a variety of foster care, respite care, residential treatment, and institutional resources, under the protections established in P.L. 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997 (ASFA), Title 16, Chapter 16, Idaho Code, and the Indian Child Welfare Act (ICWA), 25 U.S.C. Sections 1901-1963. (7-1-25)

03. Child's Plan. A federally required component of the family case plan for a child in alternate care. The child's plan contains elements related to reasonable efforts, the family's plan, the child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, medical, and other information important to the day-to-day care of the child. (7-1-25)

~~**04. Board**. The Idaho State Board of Health and Welfare.~~ ~~(3-15-22)~~

0~~5~~4. Case Management. A change-oriented service to families that ensures and coordinates ongoing assessment, family case planning, treatment, permanency, planning, child safety, advocacy, documentation, and timely closure of a case. (7-1-25)

0~~6~~5. Child and Family Services (CFS). Those programs and services provided to families and children, administered by the ~~d~~Department in accordance with these rules. ~~(7-1-25)~~( )

0~~7~~6. Child Protective Services. Services provided in response to potential, alleged, or actual abuse, neglect, or abandonment of individuals under the age of eighteen (18) in accordance with the provisions Title 16, Chapter 16, Idaho Code. (7-1-25)

0~~8~~7. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Title 16, Chapter 19, Idaho Code; Title 16, Chapter 21, Idaho Code; or Title 39, Chapter 75, Idaho Code. (7-1-25)

0~~9~~8. Daycare. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (7-1-25)

~~10~~09. Deprivation. One of the factors used in determining Aid to Families with Dependent Children -- Foster Care (AFDC-FC) eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the principal wage earner parent. (3-15-22)

1~~1~~0. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-15-22)

1~~2~~1. Extended Family Member of an Indian Child. As defined by the law; or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (7-1-25)

1~~3~~2. Extended Foster Care. A court order or voluntary case extending foster care placement services and authority for individuals between the ages of eighteen (18) and twenty-~~one~~three (2~~1~~3) years to help such person

achieve a successful transition to adulthood, providing they were in the custody of the ~~d~~Department until their eighteenth birthday and must meet the criteria set forth in 42 25 U.S.C. 675(8)(B)(iv). ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.
For the purposes of these rules, the following terms are used: (3-15-22)

01. Safety Assessment. A process and standardized tool for contact between a family services worker and a family to objectively determine if safety threats, or immediate service needs exist that require further Child and Family Services response. (3-15-22)

02. Safety Plan. Plan developed by the ~~d~~Department and a family that assures the immediate safety of a child. ~~(7-1-25)~~( )

03. Sibling. One (1) of two (2) or more persons who shares the same biological or adoptive mother or father, or both. Siblings may be full-siblings or half-siblings. Siblings include those children who would be considered a sibling if not for the disruption in parental rights due to termination of parental rights or the death of a parent. (3-15-22)

04. Tribal Court. A court with jurisdiction over child-custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe vested with authority over child custody proceedings. (7-1-25)

05. Voluntary Services Agreement. A written and executed agreement between the ~~d~~Department and parents or legal guardians regarding the provision of voluntary foster care placement of a child and includes areas of concern, desired results, and task responsibility. ~~(7-1-25)~~( )

06. Withholding of Medically Indicated Treatment. Withholding of medically indicated treatment as defined by 42 U.S.C. 5106g(a)(5). (7-1-25)

014. -- 019. (RESERVED)

GENERAL REQUIREMENTS AND SERVICES
(Sections 020-239)

020. GENERAL REQUIREMENTS APPLICABLE TO ALL CHILD AND FAMILY SERVICES PROGRAMS.

01. Initiating Child and Family Services. Child and Family Services are initiated upon referral for services that the program is legally mandated to provide or after completion of a written request for services. Efforts will be made to identify any Indian children in the family and all possible tribes in which a child may be a member or eligible for membership. (7-1-25)

a. A screening is conducted to determine service needs and safety threats that can be addressed through Child and Family Services. (7-1-25)

b. Upon referral or application for services, the family services worker must inform the family that: (7-1-25)

i. They have the right to accept or reject services offered by the ~~d~~Department, except those services imposed by law or by a court order; ~~(7-1-25)~~( )

ii. Fees may be charged for certain services, and that the parent(s) has the financial responsibility for the child in care; (7-1-25)

iii. They have the right to pursue an administrative appeal of any decision of Child and Family Services relating to them, including any decision not to provide services or to discontinue services; the ~~d~~Department's failure to act upon a referral or request for services within thirty (30) days; or a decision to remove a child from an alternate care placement unless court-ordered or court-authorized. ~~(7-1-25)~~( )

02. Individual Authorized to Request Voluntary Services. Requests for voluntary services must be made by a parent or an authorized representative. (7-1-25)

021. -- 029. (RESERVED)

030. CORE CHILD AND FAMILY SERVICES.
In addition to other services included in this chapter, the following state and federally mandated core services are provided to eligible youth and/or families through the Child and Family Services Program: (7-1-25)

01. Assessment and Safety/Case Planning Services. A family assessment in which the safety threats to the child, and the family's concerns, strengths, and resources are identified. Assessment results inform the development and implementation of the case plan. (7-1-25)

02. Prevention Services. Evidence-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. (4-6-23)

a. These services are provided in the Family First Prevention Services Act (Public Law 115-123) under the categories of mental health, substance use prevention and treatment, and in-home parent skill-based programs and services. Additional services can be implemented through community education, and partnerships with other community agencies such as schools and courts. (4-6-23)

b. The Department sets the maximum hourly or flat rates for Prevention Services covered by Title IV-E federal funding and are based on the cost for services. When services are provided by private providers, payment must be made according to a contract authorized by the Child and Family Services Program Manager, based on the cost for services to be provided. Current information about services and rates can be obtained from Child and Family Services website. (4-6-23)

03. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for minors who are placed in the care or custody of the ~~d~~Department under Title 16, Chapter 16, Idaho Code. The ~~d~~Department arranges and finances, in full or in part, out-of-home placements. ~~(7-1-25)~~( )

04. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts between a child in alternate care with relatives, kin, and extended family, placement with families outside the state of Idaho will be considered. The ~~d~~Department may contract with a residential facility out-of-state if it best serves the needs of the child. Placement will be coordinated with the respective interstate compact administrator according to the provisions of Title 16, Chapter 21, Idaho Code. ~~(7-1-25)~~( )

05. Independent Living. Services, including assessment and planning, provided to eligible youth and young adults to promote self-reliance and successful transition to adulthood. (7-1-25)

a. Eligibility - Current foster youth or young adults will: (7-1-25)

i. Be fourteen (14) to twenty-~~one~~three (2~~1~~3) years of age; and ~~(3-15-22)~~( )

ii. Currently be under department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and twenty-~~one~~three (2~~1~~3) years of age; and ~~(7-1-25)~~( )

b. Eligibility - Youth or young adults ~~formally~~ formerly in foster care will: ~~(7-1-25)~~( )

i. Be sixteen (16) to twenty-three (23) years of age; and ~~(7-1-25)~~( )

ii. Have been under department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and (7-1-25)

iii. Have been placed in foster care or similar eligible setting ~~for a minimum of ninety (90) days total~~ after reaching sixteen (16) years of age or have aged out of foster care; or ~~(3-15-22)~~( )

iv. Be eighteen (18) to twenty-three (23) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. (3-15-22)

c. Eligibility Limit. Once established as in Subsection 030.0~~9~~5.b. in this rule, a youth's eligibility is maintained up to their twenty-third birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. ~~(3-15-22)~~( )

06. Adoption Services. Services designed to promote and support the permanency of children in foster care through adoption. This involves the legal and permanent transfer of parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. (7-1-25)

031. -- 049. (RESERVED)

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.

01. Reasonable Efforts. Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, and to finalize a permanent plan. The following efforts must be made and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable. (3-15-22)

a. Efforts to prevent or eliminate the need for a child to be removed from their home; (3-15-22)

b. Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (3-15-22)

c. Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (3-15-22)

02. Active Efforts. Efforts beyond reasonable efforts required under ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, or to reunify an Indian family. Active efforts must include contacts and work with an Indian child's tribe. (7-1-25)

03. Compliance with the Indian Child Welfare Act of 1978. (7-1-25)

04. Legal Requirements for Indian Children. When there is reason to believe that a child is an Indian child, notice of the pending proceeding must be sent according to the notice provisions specified in Section 051 of these rules. Notice must also include notice of the tribe's right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-15-22)

05. Visitation for Child's Parent(s) or Legal Guardian(s). Except as otherwise prescribed in statute, ~~T~~the ~~d~~department should determine the scope, duration, and manner of visitation that best promotes the best interest of the child and ensures that visitation does not impair the physical or mental health of a child. ~~In-person visitation arrangements between a child and a parent who has been substantiated at a Level One or Two by the department for one of the following: sexual abuse, sexual exploitation, or physical abuse will not be granted unless it is in the best interest of the child and the child's physical and/or mental health will not be impaired. If in-person visitation is granted, it will only occur under the following conditions:~~ ~~(7-1-25)~~( )

~~**a.** Approved by a program manager, after consultation with the child's guardian ad litem, where~~

~~applicable, who concludes that in-person visitation is in the best interest of the child and that the child's physical and/or mental health will not be impaired;~~ ~~(7-1-25)~~

~~**b.** Under conditions set forth by the program manager. Conditions of supervised visitation will include the following:~~ ~~(7-1-25)~~

~~i. The parent will not be left alone with the child for any reason, including restroom breaks;~~ ~~(7-1-25)~~

~~ii. For sexual abuse and exploitation cases, the parent will not allow the child to sit on his or her lap;~~ ~~(7-1-25)~~

~~iii. The parent will not be allowed to engage in secret conversations or other communication that cannot be monitored in real time;~~ ~~(7-1-25)~~

~~**c.** The best interest decision and visit conditions are documented and explained in writing.~~ ~~(7-1-25)~~

06. Notification of Change in Visitation. Notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. (7-1-25)

07. Qualified Expert Witness-(QEW) under ICWA. The testimony of an expert witness is required at the hearing in which an Indian child is placed in state custody, typically the adjudicatory, and at the hearing for termination of parental rights. A QEW must be qualified to testify regarding whether the child's continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child and should be qualified to testify as to the prevailing social and cultural standards of the Indian child's Tribe. The ~~d~~Department, the court, or any party may request the assistance of the Indian child's Tribe or the Bureau of Indian Affairs office serving the Indian child's Tribe in locating persons qualified to serve as expert witnesses. A QEW in order of preference is: ~~(7-1-25)~~( )

a. A member of the Indian child's Tribe; (7-1-25)

b. A member of the Tribe of the Indian child's parent; (7-1-25)

c. A descendant of the Indian child's Tribe; (7-1-25)

d. A member of a tribe recognized as sharing the same ethnicity, language, territory, traditions, or customs as the child's tribe; (7-1-25)

e. A member of any federally recognized tribe; (7-1-25)

f. An individual not meeting the definitions in (a) through (e) who is designated by the child's Tribe as qualified to testify to the prevailing social and cultural standards of the Indian child's Tribe. (7-1-25)

g. The family services worker regularly assigned to the Indian child may not serve as a QEW in proceedings concerning the child. (7-1-25)

08. Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Placement (IEPA) of 1996. (7-1-25)

a. Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. (3-15-22)

09. Family Decision-Making and Plan Development. (3-15-22)

a. A case plan will be completed within thirty (30) days of the date the case was opened. (7-1-25)

b. Families will be given ample opportunity to participate in the identification of areas of concern, their strengths, and developing service goals and tasks. The family plan and any changes to it must be signed and

dated by the family. If the family refuses to sign the plan, the reason for their refusal will be documented on the plan. (3-15-22)

c. Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the ~~d~~Department and the family as well as signed by the family. A new plan must be negotiated at least annually. ~~(7-1-25)~~( )

10. Compelling Reasons. Reasons why the parental rights of a parent of a child in the ~~d~~Department's care and custody should not be terminated when the child has been in the custody of the ~~d~~Department for fifteen (15) out of the most recent twenty-two (22) months. ~~(7-1-25)~~( )

a. These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. (3-15-22)

b. A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. (3-15-22)

c. When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. (3-15-22)

11. Permanency Preferences. The following preferences will be considered in the order listed below when recommending and making permanency decisions: (7-1-25)

a. Return home if safe to do so; (3-15-22)

b. Adoption or legal guardianship by a relative or kin; (3-15-22)

c. Adoption or legal guardianship by non-relative; (3-15-22)

d. Another planned permanent living arrangement such as long-term foster care. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

060. FAMILY CASE RECORDS.

01. Electronic and Physical Files. The ~~d~~Department will maintain an electronic file and a physical file containing information on each family receiving services. The physical file will contain non-electronic documentation such as originals or original copies of all court orders, birth certificates, social security cards, and assessment information that is original outside the ~~d~~Department. ~~(7-1-25)~~( )

02. Storage of Records. All physical family case records must be stored in a secure file storage area, away from public access and retained not less than five (5) years after the case is closed, after which they may be destroyed. (3-15-22)

a. Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the ~~d~~Department's central adoption unit for permanent storage. ~~(7-1-25)~~( )

b. Exception for Case Records Involving an Indian Child. A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (3-15-22)

061. -- 399. (RESERVED)

ALTERNATE (OUT-OF-HOME) CARE
(Sections 400-424)

400. AUTHORITY FOR ALTERNATE CARE SERVICES.
Upon approval of the regional Child and Family Services Program Manager or their designee, the ~~d~~Department may provide or purchase ~~alternative~~ alternate care under the following conditions: ~~(7-1-25)~~( )

01. Department Custody. When the child is in the legal custody or guardianship of the ~~d~~Department; or ~~(7-1-25)~~( )

02. Voluntary Placement. Agreement with the parent(s) or legal guardian(s) after the parent(s) or legal guardian(s) request assistance from the agency due to circumstances that interfere with their ability to meet the needs of or they are no longer able to maintain a child in their home and it is in the best interest of the child for an out of home placement with case planning services to address the family situation. Young adults who exited foster care at age 18, who are not yet 21, may also enter a voluntary placement under extended foster care. (7-1-25)

a. A case plan and an out-of-home placement agreement must be developed between the Department and the family. The case plan will identify areas of concern, goals, desired results, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. (7-1-25)

b. A voluntary agreement for out-of-home placement entered into between the ~~d~~Department and the parent(s) or legal guardian(s) of a minor child that specifies the legal obligations of all parties and may be revoked at any time by the child's parent(s) or legal guardian(s) and the child must be returned to the parent or legal guardian unless a court determines that the return of the child would be contrary to the child's best interest. ~~(7-1-25)~~( )

c. A contract between the ~~d~~Department and the service provider, if applicable, must also be in effect. ~~(7-1-25)~~( )

d. When seeking federal funding the ~~d~~Department will comply with the Social Security Act, ~~s~~Section 472. ~~(7-1-25)~~( )

e. Indian child. Where any parent or Indian custodian voluntarily consents to a foster care placement, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian fully understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid. Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian unless a court determines that the return of the child would be contrary to the child's best interest. (7-1-25)

401. CONSIDERATIONS FOR PLACEMENT IN ALTERNATE CARE.
The ~~d~~Department will make timely and ongoing efforts to identify and notify, both verbally and in writing individuals identified below of the potential imminent placement and the requirements for consideration as a placement resource. The ~~d~~Department will comply with 16-1629(11), Idaho Code, to make reasonable efforts to place the child in the least restrictive environment to the child consistent with the best interest and special needs of the child and follow placement priority: ~~(7-1-25)~~( )

01. Family Assessment. Relatives and non-relatives must comply with IDAPA 16.06.02 as a condition of licensed placement. (7-1-25)

402. INVOLUNTARY PLACEMENT OF INDIAN CHILDREN.

01. Involuntary. Placement of an Indian child in foster care must be based upon clear and convincing evidence, including information from a qualified expert witness that active efforts were made to prevent the Indian child's placement or are preventing reunification. (7-1-25)

02. Notice. Notice to the child's Tribe will be made as stated in Subsection 05.01 of these rules.

(7-1-25)

03. **Accepted**. An Indian child accepted for foster care or ~~proadoptive~~ preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. ~~(7-1-25)~~( )

04. **Placement**. In any foster care or preadoptive placement of an Indian child where the child's Tribe has not established a different order of preference, preference must be given, in descending order, as listed below, to the placement of the child with: (7-1-25)

a. Extended Family. A member of the Indian child's extended family; (3-15-22)

b. Foster Home Approved by Tribe. A foster home licensed approved, as specified by the Indian child's tribe; (7-1-25)

c. Licensed Indian Foster Home. An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or (3-15-22)

d. Indian Institution. An institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the child's needs. (7-1-25)

403. DATE A CHILD ENTERED FOSTER CARE.
A child is considered to have entered foster care on the date the child is actually removed from their home. All foster care benefits and eligibility determinations must be based on this date. ~~However~~ ~~f~~For the purpose of funding, the ~~d~~Department will follow requirements included in the Social Security Act, Section 475. ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

405. ALTERNATE CARE CASE MANAGEMENT.
Case management must continue while the child is in alternate care and must ensure the following: (3-15-22)

01. **Preparation Provided to the Placement**. Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker, and the alternate care provider. (7-1-25)

02. **Information for Alternate Care Provider**. The Department and the family have informed the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-15-22)

a. Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (3-15-22)

b. The name of the child's doctor; (3-15-22)

c. The child's current functioning and behaviors; (3-15-22)

d. A copy of the child's portion of the case plan including any visitation arrangements; (7-1-25)

e. The case history of the child, including the reason the child came into foster care, the child's legal status, and the permanency goal for the child; (3-15-22)

f. A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; (3-15-22)

g. The child's cultural and racial identity; (3-15-22)

h. Any educational, developmental, or special needs of the child; (3-15-22)

i. The child's interest and talents; (3-15-22)

j. The child's attachment to current caretakers; (3-15-22)

k. The individualized and unique needs of the child; (3-15-22)

l. Procedures to follow in case of emergency; and (3-15-22)

m. Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-15-22)

03. Consent for Medical Care. Whenever possible the parent(s) or legal guardian(s) should sign for medical, dental, or mental health appointments. The ~~d~~Department will follow Section 16-1602(29), Idaho Code, when parent(s) or legal guardian(s) are unavailable and Section 16-1627, Idaho Code, when authorization for emergency medical treatment is needed. ~~(7-1-25)~~( )

04. Contact with Child. The family, the family services worker, and the alternate care provider will establish a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. (7-1-25)

a. Face-to-face contact with a child by the assigned family services worker must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the assigned family services worker and the child occurs where the child resides a minimum of once every sixty (60) days. (7-1-24)

b. The ~~d~~Department will assess for possible abuse, neglect, or abandonment of children in alternate care. ~~(7-1-25)~~( )

c. Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face, if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. ~~(3-15-22)~~( )

05. Discharge Planning. Planning for discharge from alternate care ~~are~~ is developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. ~~(3-15-22)~~( )

06. Transition Planning. Planning for discharge from alternate care into a permanent placement ~~are~~ is developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. ~~(3-15-22)~~( )

07. Financial and Support Services. As part of the discharge planning, ~~D~~departmental resources are coordinated to expedite access to Department financial and medical assistance and community support services. ~~(3-15-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

430. ONGOING ELIGIBILITY.
To continue eligibility for Title IV-E, the ~~d~~Department will complete an annual redetermination to assure that the

court has determined that the ~~d~~Department has made reasonable efforts to finalize a permanency plan for the child within twelve (12) months of the date the child is considered to have entered foster care and at least once every twelve (12) months thereafter while the child is in foster care. ~~(7-1-25)~~( )

431. (RESERVED)

432. MEDICAID ELIGIBILITY FOR CHILD IN FOSTER CARE.
For Title XIX Medicaid eligibility for a foster child, please refer to IDAPA 16.03.01,"Eligibility for Health Care Assistance for Families and Children."~~.~~ ~~(7-1-25)~~( )

~~**433. INCOME, BENEFITS AND SAVINGS OF CHILDREN IN FOSTER CARE.**~~
~~FACS will apply for income or benefits including social security, tribal benefits, or estates of deceased parents. The payee will be DHW-FACS-CWFT.~~ ~~(7-1-25)~~

433. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

436. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.
When a child enters care if there is a child support order already in effect for that child, the child support funds will be redirected to the ~~d~~Department to contribute to the cost of the child's care. If there is no child support order already in effect, a new child support case will not automatically be opened. The ~~d~~Department may initiate a child support case for a child in care, in its discretion, if the ~~d~~Department concludes that doing so is in the best interest of the child. This provision does not limit the authority of the ~~d~~Department to initiate or otherwise litigate child support on other grounds. ~~(7-1-25)~~( )

437. ACCOUNTING AND REPORTING.
The Department's Division of ~~Family and Community Services~~ Youth Safety and Permanency, Child Welfare Funding Team must account for the receipt of funds and develop reports showing how much money has been received and how it has been utilized. ~~(3-15-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

441. ~~REFERRAL TO CHILD SUPPORT SERVICES~~COLLECTION OF CHILD SUPPORT.
~~The Department will refer the parent(s) to the Bureau of Child Support Services for support payment arrangements.~~ ~~(3-15-22)~~

~~**01. Assignment of Child Support.** The Department through the Bureau of Child Support Services will secure assignment of any support due to the child while in alternate care. Social Security and Supplemental Security Income benefits are specifically aimed at meeting the child's needs and therefore will follow the child in placement and the Department must request to be named payee for all funds for placements extending over thirty (30) days.~~ ~~(3-15-22)~~

~~**02. Collection of Child Support.**~~ The Department must take action to collect any child support ordered in a divorce or custody decree. ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

445. DENTAL CARE.
Each child aged three (3) who is placed in alternate care must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist.

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

01. Costs Paid by Medicaid. If dental care not included in the state medical assistance program is recommended, a request for payment must be submitted to the state Medicaid dental contractor. (7-1-25)

02. Emergencies. For children in shelter care, emergency dental services will be provided for and paid for by the Department, if there are no other financial resources available. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

485. TREATMENT FOSTER CARE.
A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children in the custody of the ~~d~~Department under the purview of the Child Protective Act, is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgment of the department.
~~(7-1-25)~~( )

01. Qualifications. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-15-22)

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, Foster Care Licensing; (7-1-25)

b. Complete department-approved treatment foster care initial training; and (7-1-25)

c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-15-22)

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (3-15-22)

ii. Demonstrated cooperation and a positive working relationship with families and providers of child welfare or mental health services. (3-15-22)

02. Continuing Education. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the ~~d~~Department. ~~(7-1-25)~~( )

03. Availability. At least one (1) treatment foster parent, in each treatment family home, must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-15-22)

04. Payment. The ~~d~~Department will pay treatment foster parents up to one thousand eight hundred ($1,800) dollars per month, per child, which includes the monthly payment rate posted on the Child and Family Services website. The payment will be made to treatment foster parents in accordance with a contract with the Department. ~~(7-1-25)~~( )

05. Payment to Contractors. The ~~d~~Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The ~~d~~Department will specify the rate of payment in the contract with the agency. ~~(7-1-25)~~( )

06. Treatment Plan. The treatment foster parent(s) must implement the portions of the ~~d~~Department or Children's Agency-approved treatment plan for which they are designated as responsible, for each child in their care. (7-1-25)

486. OTHER ALTERNATIVE CARE.
Foster care for children who generally require more structured services and activities than found in a family setting. (7-1-25)

01. Referral. Any referral of a child to a other alternative care-setting where the ~~d~~Department will make full or partial payment must have prior authorization by the Child and Family Services Program Manager or designee. ~~(7-1-25)~~( )

02. Placement. Determined by the documented mental, medical or behavioral health needs of each child and the ability of other ~~alternate~~ alternative care provider to meet those needs. ~~(7-1-25)~~( )

03. Payment. Payment will be in accordance with the contract authorized by the regional director or division administrator, based on the needs of the children being placed and the services to be provided. (7-1-25)

487. -- 549. (RESERVED)

CHILD PROTECTION SERVICES
(Sections 550-639)

550 -- 551. (RESERVED)

552. REPORTING SYSTEM.
The ~~d~~Department maintains a system for receiving and responding to reports or complaints on a twenty-four (24) hour per day, seven (7) day per week basis statewide. ~~(7-1-25)~~( )

553. ASSIGNING REPORTS FOR SAFETY ASSESSMENT.

01. Child Reports. The Department will assign all reports of possible abuse, neglect, or abandonment of children for safety assessment, unless there is insufficient information to indicate assignment is necessary. (7-1-25)

02. Infant Reports. To ensure the protection of infants in health care facilities throughout the state and who have been in continuously hospitalized since birth, who were born extremely prematurely, or who have a long-term disability, the ~~d~~Department will assign reports of instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions in accordance with the ~~d~~Department's response priorities. ~~(7-1-25)~~( )

554. RESPONSE PRIORITIES.
The Department will use the following priorities for responding to allegations of abuse, neglect, or abandonment. If a variance is necessary from these response priorities, it will be documented in the family's case file with a description of action taken, and will be reviewed and signed by the Child and Family Services Supervisor. (7-1-25)

01. Priority I. The ~~d~~Department will respond immediately if a child is in immediate danger involving a life-threatening or emergency situation and for cases of sexual abuse when a child may have contact with the alleged perpetrator. Law enforcement will be notified and requested to assist. Every attempt will be made to coordinate the ~~d~~Department's assessment with law enforcement's investigation. The child will be seen by a family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities will be considered Priority I unless there is reason to believe that the child is not in immediate danger. ~~(7-1-25)~~( )

02. Priority II. A child is not in immediate danger but allegations of abuse, or neglect are clearly defined in the referral. The child will be seen by the family services worker within forty-eight hours (48) of the

~~d~~Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals. ~~(7-1-25)~~( )

03. Priority III. A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well-being. A family services worker must respond within three (3) calendar days and the child will be seen by the worker within five (5) calendar days of the ~~d~~Department's receipt of the referral. ~~(7-1-25)~~( )

04. Notification of the Person Who Made the Referral. The ~~d~~Department must notify the person who made the child protection referral of the receipt of the referral within five (5) days, unless notification is declined. ~~(7-1-25)~~( )

05. Disclosure of Information to Professionals. The Department has the discretion to disclose, on a need-to-know basis, minimally necessary information to individuals who are professionally involved in the ongoing care of the child who is the subject of a report of abuse, neglect, or abandonment. This includes information that the professional needs to know in order to fulfill their role in maintaining the child's safety and well-being. This provision applies to: (7-1-25)

a. Physicians, residents on a hospital staff, interns, and nurses; (3-15-22)

b. School teachers, school staff, and day care personnel; and (3-15-22)

c. Mental health professionals, including psychologists, counselors, marriage and family therapists, and social workers. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

556. REPORTS INVOLVING INDIAN CHILDREN.
Possible abuse, neglect, or abandonment of a child who is known or believed to be Indian will be reported to appropriate tribal authorities immediately. If the reported incident occurs off a reservation, the ~~d~~Department will perform the investigation. The ~~d~~Department will also investigate incidents reported on a reservation if requested to do so by appropriate authorities of the tribe. A record of any response will be maintained in the case record and written documentation will be provided to the appropriate tribal authorities. ~~(7-1-25)~~( )

557. REPORTS INVOLVING MILITARY FAMILIES.
The ~~d~~Department will comply with notice requirements pertaining to child abuse or neglect in which the person having care of the child is a member of the armed forces (or the spouse of the member) as required by 10 USC 1787. ~~(7-1-25)~~( )

558. (RESERVED)

559. CHILD PROTECTION SAFETY AND COMPREHENSIVE ASSESSMENTS.
The ~~d~~Department's safety and comprehensive assessments will be conducted in a standardized format and utilize statewide assessment and multi-disciplinary team protocols. ~~(7-1-25)~~( )

01. Assessment of a Child. The family services worker will complete an assessment of every child of concern. When the child is interviewed as part of a safety and comprehensive assessment, the interview of a child concerning a child protection report will be conducted: (7-1-25)

a. In a manner that protects all children involved from undergoing any unnecessary traumatic experience; (7-1-25)

b. By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and (3-15-22)

c. In a neutral, non-threatening environment, if available. (7-1-25)

02. Assessment of the Family. The family services worker conducting the interview will: (7-1-25)

a. Immediately notify the parent(s) or legal guardian(s) of the purpose and nature of the assessment. (3-15-22)

b. Provide at the initial contact the name and work phone numbers of the family services worker and their supervisor to ensure the family has a contact for questions and concerns that may arise following the visit; (3-15-22)

c. Inquire if the family is Indian, or has Indian heritage, for the purposes of ICWA; (3-15-22)

d. Interview siblings who are identified as being at risk; and (3-15-22)

e. Not divulge the name of the person making the report of child abuse or neglect. (3-15-22)

03. Collateral Interviews. Any assessment of an abuse or neglect report will include at minimum one (1) collateral interview with a person who is familiar with the circumstances of the child(ren) involved. Collateral interviews will be conducted with discretion and preferably with the parent(s)' or legal guardian(s)' permission. (7-1-25)

04. Completion of a Comprehensive Assessment. A Safety Assessment will be completed on each referral assigned for assessment of abuse or neglect, or both. When safety threats are identified in the safety assessment and the case remains open for services. (7-1-25)

05. Notification of the Person Who Made the Referral. The ~~d~~Department must notify the person who made the child protection referral when the safety assessment has been completed. ~~(7-1-25)~~( )

560. DISPOSITION OF CHILD PROTECTION REPORTS.
Within five (5) days following completion of safety assessments, the ~~d~~Department will determine whether the reports are substantiated or unsubstantiated. All persons who are identified as a caretaker will be notified of the disposition of the assessment as it pertains to them. ~~(7-1-25)~~( )

01. Substantiated. Child abuse, neglect, or abandonment reports are substantiated by one (1) or more of the following: (3-15-22)

a. Witnessed by a family services worker, as defined in Section 011 of these rules; (3-15-22)

b. A court determines, in an adjudicatory hearing, that a child comes within the jurisdiction of Title 16, Chapter 16, Idaho Code; (7-1-25)

c. A confession by the alleged offender; (7-1-25)

d. Corroborated by physical or medical evidence; or (3-15-22)

e. Established by evidence that it is more likely than not that abuse, neglect, or abandonment occurred. (3-15-22)

02. Unsubstantiated. Child abuse, neglect, or abandonment reports are unsubstantiated when they are not found to be substantiated under Subsection 560.01 of this rule due to: (7-1-25)

a. Insufficient evidence; or (3-15-22)

b. An erroneous report. (3-15-22)

561. CHILD PROTECTION CENTRAL REGISTRY.

In compliance with P.L. 109-248, July 27, 2006, the Child Protection Central Registry was established under the authority of Section 16-1629(3), Idaho Code. The Child Protection Central Registry provisions in this chapter of rules apply to safety assessments conducted by the ~~d~~Department after October 1, 2007. ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

563. LEVELS OF RISK ON THE CHILD PROTECTION CENTRAL REGISTRY.
When an incident of abuse, neglect, or abandonment has been substantiated, a level of risk is assigned to the incident. (7-1-25)

01. Child Protection Level One. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will remain permanently on the Child Protection Central Registry at Level One. (7-1-25)

a. Sexual Abuse as defined in Sections 16-1602(1)(b) or 18-1506, Idaho Code; (7-1-25)

b. Sexual Exploitation as defined in Sections 18-1507 or 18-1507A, Idaho Code; (7-1-25)

c. Abuse as described in Section 16-1602(1)(a), Idaho Code, that causes life-threatening, disabling, or disfiguring injury or damage; (7-1-25)

d. Neglect as described in Section 16-1602(31), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

e. Abandonment as described in Section 16-1602(2), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

f. Death of a child as a result of abuse, neglect, or abandonment; (7-1-25)

g. Torture of a child as described in Section 18-4001, Idaho Code; (3-15-22)

h. Aggravated Circumstances as described in Section 16-1602(6), Idaho Code; or (3-15-22)

i. Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, listed under Subsection 563.02 of this rule. (7-1-25)

02. Child Protection Level Two. An individual with a Level Two designation will remain on the Child Protection Central Registry for a minimum of ten (10) years. After the end of the ten-year (10) period, an individual may petition the ~~d~~Department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will be given the designation of Level Two. ~~(7-1-25)~~( )

a. Prenatal use of any controlled substance as defined under Section 37-2701(e), Idaho Code, except as prescribed by a medical professional; (3-15-22)

b. Administering, causing, or knowingly allowing a child to absorb or ingest one (1) or more controlled substances as defined under Section 37-2701(e), Idaho Code, except in the amount prescribed for the child by a medical professional; ~~(3-15-22)~~( )

c. Child exposed to: (3-15-22)

i. Drug paraphernalia, as defined in Section 37-2701(o), Idaho Code; (7-1-25)

ii. Manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code, and

Section 37-2701(t), Idaho Code; or (7-1-25)

iii. Chemical components used in the manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code. (3-15-22)

d. Abuse as described in Section 16-1602(1)(a), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but requires medical treatment as recommended by a medical provider; (7-1-25)

e. Abandonment as described in Section 16-1602(2), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but requires medical treatment as recommended by a medical provider: (7-1-25)

f. Neglect as described in Section 16-1602(31), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but requires medical treatment as recommended by a medical professional; (7-1-25)

g. The restraint or confinement of a child that poses a substantial risk of causing life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

h. Medical neglect as described in Section 16-1602(31), Idaho Code, that poses a substantial risk of resulting in life-threatening, disabling, or disfiguring injury or damage; (3-15-22)

i. Malnutrition as established by medical evidence; or (3-15-22)

j. Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, listed under Subsection 563.03 of this rule. (7-1-25)

03. Child Protection Level Three. An individual with a Level Three designation will remain on the Child Protection Central Registry for a minimum of five (5) years. After the end of the five-year (5) period, an individual may petition the ~~d~~Department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following are given the designation of Level Three. ~~(7-1-25)~~( )

a. Lack of supervision; (3-15-22)

b. Failure to protect from abuse, neglect, or abandonment as described in Section 16-1602, Idaho Code; (3-15-22)

c. Failure to discharge parental responsibilities described under Section 16-1602(31)(b), Idaho Code; (7-1-25)

d. Abuse as described in Section 16-1602(1)(a), Idaho Code, that causes minor injuries or damage that does not require medical treatment; (7-1-25)

e. Neglect as described in Section 16-1602(31), Idaho Code, that causes minor injuries or damage that does not require medical treatment. (7-1-25)

564. NOTIFICATION OF A SUBSTANTIATED INCIDENT OF ABUSE, NEGLECT, OR ABANDONMENT, AND RELATED ADMINISTRATIVE REVIEW AND CONTESTED CASE APPEAL RIGHTS.

01. Notification of Substantiated Incident. Prior to placement on the Child Protection Central Registry, the ~~d~~Department will notify by certified mail, return receipt requested, each individual for whom an incident of abuse, neglect, or abandonment has been substantiated. The individual has twenty-eight (28) days from the date on the notification to file a request for an administrative review. Failure to request a review will result in the individual's name being entered on the Child Protection Central Registry without further right for appeal. The ~~d~~Department's written notice will state: ~~(7-1-25)~~( )

a. The risk level assigned to the incident; (3-15-22)

b. The basis for the ~~d~~Department's decision; ~~(7-1-25)~~( )

c. The individual's right to request an administrative review ~~by the department's Family and Community Services (FACS) Division Administrator~~ of the department's decision; and ~~(7-1-25)~~( )

d. The ~~d~~Department's contact information. ~~(7-1-25)~~( )

02. Administrative Review Requested. If the individual requests an administrative review ~~by the FACS Division Administrator~~ of a substantiated incident within twenty-eight (28) days from the date on the notification, the appeal process will begin. The individual will receive redacted documents regarding the incident that is being appealed. The individual will have fourteen (14) days to submit additional documentation. At the end of the fourteen-day period, the incident will be reviewed ~~by the FACS Division Administrator~~ and a decision will be rendered to either affirm, reverse, or modify, the decision to substantiate the incident of abuse, neglect, or abandonment. The Department will notify the individual of the ~~FACS Division Administrator's~~ Department's decision by mail. If the administrative review affirms or modifies the decision to substantiate, failure to timely request a contested case appeal will result in the individual's name being entered on the Child Protection Central Registry without further right for appeal. ~~(7-1-25)~~( )

03. Reversal of Decision to Substantiate. When the ~~FACS Division Administrator~~ Department completes the administrative review and reverses the decision to substantiate the incident of abuse, neglect, or abandonment, then no further action is required by the individual. The individual's name will not be placed on the Child Protection Central Registry. ~~(7-1-25)~~( )

04. Contested Case Appeal. When the ~~FACS Division Administrator~~ Department completes the administrative review and affirms the decision to substantiate the incident of abuse, neglect, or abandonment, the individual will be notified by mail that the individual has twenty-eight (28) days to continue the appeal process and will be informed of: ~~(7-1-25)~~( )

a. The basis for the ~~d~~Department's decision; ~~(7-1-25)~~( )

b. The procedures for filing a contested case appeal; (7-1-25)

c. The procedures for filing a petition for removal from the Child Protection Central Registry after the applicable minimum time has passed under Section 566 of these rules; (7-1-25)

d. The ~~d~~Department's contact information; and ~~(7-1-25)~~( )

e. That failure to respond at any point in the appeal process will end the appeal process and the individual's name will automatically be entered on the Child Protection Central Registry without further notice or right to appeal. (7-1-25)

05. Child Protection Central Registry. Following a decision by the hearing officer to affirm the decision to substantiate, an individual's name will be placed on the Child Protection Central Registry. (7-1-25)

565. (RESERVED)

566. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE CHILD PROTECTION CENTRAL REGISTRY.

Any individual whose name is on the Child Protection Central Registry and whose required minimum time on the registry has elapsed, may petition the Department to remove their name from the Registry. If not previously assigned a risk level, the petitioner will be assigned a child protection risk level in accordance with the criteria under Section 563 of these rules. An individual whose name appears with a Level One designation on the Child Protection Central Registry is not eligible to petition for removal. (7-1-25)

01. Petition for Removal From the Child Protection Central Registry. Any individual whose name

appears on the Child Protection Central Registry with a designation of either Level Two or Level Three, may petition to have their name removed from the Child Protection Central Registry after the minimum period of time has elapsed for the applicable level. The petition must include a written statement from the petitioner ~~to the department's FACS Division Administrator~~ requesting that the petitioner's name be removed from the Child Protection Central Registry. ~~(7-1-25)~~( )

02. Criteria for Granting Petition for Removal From the Child Protection Central Registry. The petition for removal from the Child Protection Central Registry will be granted if: (3-15-22)

a. There are no additional substantiated reports on the Child Protection Central Registry or that of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho; and (3-15-22)

b. There are no convictions, adjudications, or withheld judgments for any of the crimes listed under Subsection 566.03 of this rule: (3-15-22)

i. On Idaho's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code; or (3-15-22)

ii. On the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho. (3-15-22)

03. Criminal History Checks. It is the responsibility of the petitioner to request, pay for, and obtain the criminal history checks and submit them to the ~~d~~Department. ~~(7-1-25)~~( )

a. The ~~d~~Department will not remove a petitioner from the Child Protection Central Registry when the petitioner's criminal history and background check reveals a conviction for a disqualifying crime under IDAPA 16.05.06, "Criminal History & Background Checks", Section 210, except the ~~d~~Department may remove a petitioner from the Child Protection Central Registry where the conviction arose from the same events for which the person was placed on the registry. ~~(7-1-25)~~( )

04. Granting or Denying Removal From the Child Protection Central Registry. The ~~d~~Department will issue a letter granting or denying removal of the petitioner's name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition. ~~(7-1-25)~~( )

05. Appeal of a Denial of Removal From the Child Protection Central Registry. The individual may appeal the denial of removal of their name from the Child Protection Central Registry. (7-1-25)

(BREAK IN CONTINUITY OF SECTIONS)

568. COURT-ORDERED CHILD PROTECTION SAFETY ASSESSMENT.
When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court may order that an investigation/safety assessment be conducted by the ~~d~~Department. Court orders for preliminary child protective safety assessment and for any subsequent assessment the court may deem necessary will be served on the ~~d~~Department supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor must immediately initiate the safety assessment and consult with the court promptly if there are any obstacles preventing its completion. Immediately upon completing the report, the ~~d~~Department must make a written report to the court. ~~(7-1-25)~~( )

569. PETITION UNDER THE CHILD PROTECTIVE ACT.
If any incident of child abuse, neglect, or abandonment is substantiated through a safety assessment, or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the ~~d~~Department will request the prosecuting attorney to file a Child Protective Act petition. ~~(7-1-25)~~( )

570. (RESERVED)

571. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.
Where no other community resources are available and when ordered by the district courts, the ~~d~~Department will, for a fee of thirty-five dollars ($35) per hour, conduct safety assessments that will provide information to assist the court. ~~(7-1-25)~~( )

01. Requests From Private Attorney. If a parent's attorney requests a safety assessment, and a report of findings regarding the fitness of a parent, the attorney must be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order. (7-1-25)

02. Conduct of the Assessment. In conducting the assessment, the family services worker must explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family must be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the ~~d~~Department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court. ~~(7-1-25)~~( )

03. Report to Court. The family services worker will provide a report only to the Magistrate judge who ordered the assessment, and must use the ~~d~~Department's standardized format. The report must describe what was observed about the home conditions and the care of the child(ren). ~~(7-1-25)~~( )

04. Department Clients. If the family is or has been a client of the Department, disclosure of information must comply with IDAPA 16.05.01, "Use and Disclosure of ~~d~~Department Records." ~~(7-1-25)~~( )

572. -- 699. (RESERVED)

ADOPTION SERVICES
(Sections 700-710)

700. ADOPTION SERVICES POLICY.
Where reasonable efforts to reunite or preserve a family are unsuccessful, or where relinquishment is requested by the parent(s), the ~~d~~Department will consider whether termination of parental rights is in the best interests of the child. The ~~d~~Department must make every effort to place any child legally free for adoption in an appropriate adoptive home. Each child will be placed with an adoptive family who can support the racial, ethnic or cultural identity of the child, and is able to cope with any forms of discrimination the child may experience. ~~(7-1-25)~~( )

701. SERVICES TO BE PROVIDED IN ADOPTIONS.
In addition to the services provided under these rules, the ~~d~~Department provides the following: ~~(7-1-25)~~( )

01. Pre-Placement Child/Family Assessment. An assessment of the child's history~~,~~ and needs as an individual and as part of a family. ~~(7-1-25)~~( )

02. Preparation for Placement. Assistance to the child in addressing grief and loss due to separation from their parents and with the transition to an adoptive placement. (7-1-25)

03. Technical Assistance. Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-15-22)

04. Post Adoption Services. Post adoption services are provided within available resources. Children with negotiated adoption assistance agreements from any state~~,~~ are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children under the Inter-Country Adoption of 2000 (P.L.106-279). Children with IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state serves as formal application for services in Idaho. Applications for Medicaid are made through the Department

in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

719. INVESTIGATION.
An investigation and report under the Termination of Parent and Child Relationship Act may be completed by an authorized agency, certified adoption professional or the ~~d~~Department. In addition to the factors set forth in Section 16-2008(2), Idaho Code, completed reports will include: ~~(7-1-25)~~( )

01. Description of Investigation. The allegations contained in the petition; (7-1-25)

02. The Process of the Assessment and Investigation; (7-1-25)

03. Child-Related Factors. The child's circumstances, including: (7-1-25)

a. Current functioning and behaviors; (7-1-25)

b. Medical, educational and developmental needs; (7-1-25)

c. History and past experiences; (7-1-25)

d. Identity needs; (7-1-25)

e. Interests and talents; (7-1-25)

f. Attachments to current caretakers and any absent parent; (7-1-25)

g. Current living situation; (7-1-25)

04. Documentation. Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child or parent is Indian and if so: (7-1-25)

a. Notification of the pending proceedings to the parent(s) or Indian custodian(s) and the Indian child's tribe, or the Secretary of the Interior if their identity or location is unknown; (7-1-25)

b. Notification of the right of the parent(s) or Indian custodian(s) and the Indian child's tribe to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding; (7-1-25)

c. Evidence, including identity and qualifications of expert witnesses, that continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child; (7-1-25)

05. Circumstances. The circumstances of the parent(s) whose rights are being terminated including: (7-1-25)

a. Present circumstances, history, and condition; (7-1-25)

b. Desires regarding plans for the child; (7-1-25)

c. Reasonable efforts made by the petitioner(s) to locate an absent parent(s) and provisions of notification to an unmarried father of the paternity registration requirement under Section 16-1513, Idaho Code; (7-1-25)

d. Contact with the parent(s) of a minor parent, unless lack of contact is explained; and (7-1-25)

e. The advertisement of any parent with a disability of their right to provide information regarding the manner in which the use of adaptive equipment or supportive services will enable the parent to carry out the responsibilities of parenting the child; (7-1-25)

06. Facts. Other facts which may be pertinent to the parent and child relationship and this particular case; i.e., compliance with Interstate Compact Placement on Children; and (7-1-25)

07. Recommendation. A recommendation and reasons as to whether or not the termination of the parent and child relationship should be granted. (7-1-25)

720. -- 749. (RESERVED)

BECOMING AN ADOPTIVE PARENT
(Sections 750-850)

750. APPLICATION TO BE ADOPTIVE PARENT(S).
An applicant must participate in the process and tasks to complete an adoptive home study. (7-1-25)

01. Initial Application. Each adoptive applicant must: (3-15-22)

a. Cooperate with and allow the ~~d~~Department, or certified adoption professional, to determine compliance with these rules to conduct an adoption home study; ~~(7-1-25)~~( )

b. Inform the ~~d~~Department, or certified adoption professional, if the applicant has previously applied to become a foster or adoptive parent, is currently licensed as a foster parent, or has been involved in the care and supervision of children or adults; ~~(7-1-25)~~( )

c. Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) months period prior to application for adoption, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child; (3-15-22)

d. Provide the name of, and a signed release to obtain the following information about, each member of the household: (3-15-22)

i. Admission to, or release from, a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; (3-15-22)

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue. (3-15-22)

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant. Each applicant must provide additional references upon the request of the ~~d~~Department or certified adoption professional; ~~(7-1-25)~~( )

f. All applicants for adoption and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks" and IDAPA 16.06.02, "Foster Care Licensing," Section 202. (7-1-25)

02. Psychological Evaluation. An evaluation by a psychologist or a psychiatrist can be required when an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, or certified adoption professional, in consultation with their supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. (7-1-25)

03. Orientation of Potential Applicants. Initial meetings with individual families or groups of applicants~~,~~ must be scheduled promptly to explain policies and procedures regarding adoptive placement, the kinds of

children available, and the nature of the home study. ~~(7-1-25)~~( )

04. Denial of Application. Following an initial interview, an applicant who does not appear to meet the requirements at the time of initial application may be denied a full home study. The family will be advised why they were ineligible for a full home study and notice provided to the applicant of their right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. (7-1-25)

05. Application for Subsequent Adoptions. Following the finalization of an adoption, a family may apply to be considered for another placement. (3-15-22)

a. Parents who have finalized an adoption and wish to reapply must complete an adoption application and financial statement, complete a Background Check, and submit medical reports and three (3) personal references. One (1) reference may be from a person related to the applicant. When requested by the ~~d~~Department or certified adoption professional, an applicant must provide additional references. ~~(7-1-25)~~( )

b. The prospective adoptive family will assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home and their request for another placement. (3-15-22)

c. Prospective adoptive parent(s) applying for subsequent adoption with an agency with whom they have maintained a foster care license since their previous adoption may have the requirement for a new Background Check, medical reports and personal references waived by the agency. (7-1-25)

751. -- 761. (RESERVED)

762. COMPLETING THE ADOPTION HOME STUDY.
The initial home study is completed prior to placement of any child for adoption in that home. (3-15-22)

01. Interviews. Family assessment interviews as well as individual interviews are held with the prospective adoptive parent(s). (7-1-25)

02. Content. Adoption home studies for foster care, special needs, independent, relative, and step-parent adoptions must include an assessment of the following: (3-15-22)

a. Names, including maiden or other names used by the applicant(s); (3-15-22)

b. Legal verification that the person(s) adopting is at least fifteen (15) years older than the child, or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, must be accomplished by viewing: (7-1-25)

i. A certified copy of the birth certificate filed with the Bureau of Vital Statistics; or (3-15-22)

ii. One (1) of the following documents for which a birth certificate was presumably required prior to its issuance: armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards, or naturalization papers. (7-1-25)

iii. If verifying documentation is not available, the report must indicate the date and place of birth and reason for lack of verification. (3-15-22)

c. Verification the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition; (7-1-25)

d. Adequacy of the family's house, property, and neighborhood for the purpose of providing adoptive care as determined by on-site observations; (3-15-22)

e. Educational background of the applicant(s); (3-15-22)

f. A statement of employment, family income, and financial resources, including access to health and life insurance and the family's management of these resources; (3-15-22)

g. Current and historical mental illness, drug or alcohol abuse, and medical conditions and how they may impact the adoptive parent(s) ability to care for an adopted child; (3-15-22)

h. Previous criminal convictions and history of child abuse and neglect; (3-15-22)

i. Family history, including childhood experience and the applicant(s) parents' methods of discipline and problem-solving; (3-15-22)

j. Verification of marriages and divorces; (3-15-22)

k. Names, ages, and addresses of all biological and adopted children currently residing inside or outside the home. Information regarding the current adjustment and special needs of the applicant(s) children; (7-1-25)

l. The religious and cultural practices of the family, including their interest and ability to parent and support a child's knowledge of and involvement in that child's cultural, racial, ethnic, and religious background different than their own; (7-1-25)

m. For an Indian child, the study will determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties; (7-1-25)

n. Individual and family functioning including inter-relationships with each member of the household and the family's ability to help a child integrate into the family; (3-15-22)

o. Activities, interests, and hobbies; (3-15-22)

p. Child-care and parenting skills, including historical and current methods of discipline used in the home; ~~(3-15-22)~~( )

q. Reasons for applying for adoption; (3-15-22)

r. Prior and current experiences with adoption, understanding of adoption, and ability to form relationships and bond with a specific child or general description of children; (7-1-25)

s. Attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (3-15-22)

t. Specifications of the child preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics. The family's ability to accept the behavior and personality of a specific child (if known) or general description of children and their ability to meet the child's particular educational, developmental, and psychological needs; (3-15-22)

u. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into the applicant(s) home; (3-15-22)

v. Attitude about an adopted child's birth family including: (7-1-25)

i. Ability to accept a child's background and help the child cope with their past; and (7-1-25)

ii. Willingness to work with the child's family or tribe; (7-1-25)

w. Training needs of the applicant(s); and (3-15-22)

x. A recommendation regarding the family's ability to provide adoptive care to a specific child (if known) or general description of children. (3-15-22)

763. PRE-ADOPTIVE PARENT RESPONSIBILITIES.
The pre-adoptive parent is responsible ~~to keep~~ for keeping the ~~d~~Department, agency or certified adoption professional that completed the home study informed of any changes in the family's circumstances, or of any subsequent decision against adoption. ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

THE ADOPTIVE PLACEMENT
(Sections 860-888)

860. PLACEMENT OF THE CHILD.
The adoptive placement of a child in the custody or legal guardianship of the ~~d~~Department will be selected using a committee process of no less than three (3) individuals and be approved by a regional ~~p~~Program ~~m~~Manager. ~~(7-1-25)~~( )

01. Factors Considered in Determining Adoptive Placements. (7-1-25)

a. For an Indian child, Indian Child Welfare Act (1978) placement preferences must be followed: (7-1-25)

i. A member of the child's extended family; (7-1-25)

ii. Other members of the Indian child's tribe; (7-1-25)

iii. Other Indian families. (7-1-25)

b. The primary factor in determining adoptive placement is the prospective family's ability to protect and promote the best interests of the child to be placed in their home. (7-1-25)

c. The ability to meet the cultural and racial needs of the child does not necessitate the family to have the same culture or race ~~of~~ as the child. ~~(7-1-25)~~( )

02. Disclosure. Full background information and the child's history must be discussed with the prospective adoptive parent(s) prior to pre-adoptive placement. The disclosure of background information is confirmed at the time of placement by a written acknowledgment signed by the family services worker and prospective adoptive family. A copy of this statement must be provided to the adoptive family and one (1) copy is kept in the child's permanent record. (7-1-25)

(BREAK IN CONTINUITY OF SECTIONS)

863. INVESTIGATION OF PETITION TO ADOPT AND REPORT TO THE COURT.
Written reports of investigation regarding allegations stated in petitions filed under Section 16-1506, Idaho Code, are filed at the same time as the prospective adoptive family's adoption home study. The investigation and report may be completed by the ~~d~~Department, licensed adoption agency, or certified adoption professional supervising the adoptive placement. Caution is exercised discussing identifying information to avoid revealing information in the petition while attempting to secure the necessary facts for the report. If there is reason to believe the child may be an Indian child and the child's tribe or the Secretary of the Interior has not received written Notice of Pending Proceedings, the worker must inform the court, the attorney for the petitioner(s) and the independent agency of the need to comply with the Indian Child Welfare Act. The report to the court must address the following: ~~(7-1-25)~~( )

01. Legal Availability of the Child. The family services worker or certified adoption professional will interview the family and any other person(s) having knowledge in the matter, review all documentary evidence presented by the petitioner(s), and record the information and source of the information, noting any discrepancies. Such documentary evidence must include the following: (7-1-25)

a. Birth certificate of the child; (7-1-25)

b. Consent(s) of the child's parent(s) to terminate their parental rights, termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court, and documentation of marriage and divorce; (7-1-25)

c. Termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court; (7-1-25)

d. Documentation of marriage and divorce; (7-1-25)

e. If the child is an Indian child, a copy of the Notice of Pending Proceedings for Termination of Parental Rights, and the return receipts showing that the notice was received by the Indian child's parent(s) or Indian custodian(s), and the child's tribe; (3-15-22)

f. Consent to adoption has been secured for all persons from whom it is required, including a legal guardian(s), to make the child legally available for adoption; (3-15-22)

g. Death certificate of a deceased parent; (7-1-25)

h. Verification from the Bureau of Vital Statistics of the registry of any putative father; and (3-15-22)

i. The Interstate Compact on the Placement of Children Form 100-A, for a child born outside of the state of Idaho, to determine if required state authorizations have been given, or if the Compact does not apply. (3-15-22)

02. Needs of the Child. History of the child and the child's birth family including: (7-1-25)

a. Information about the child's previous adoptive family and the circumstances of the disruption if the child was previously adopted; (7-1-25)

b. Detailed description of the circumstances that brought about the placement with the prospective adoptive family; (7-1-25)

c. Social, medical, and genetic history forms must be completed, made available to the prospective adoptive family, and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and (7-1-25)

d. The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition including any alleged relative or stepparent relationship between the child and the prospective adoptive parent(s) specifying any documentary evidence of that relationship. (7-1-25)

03. Evaluation and Recommendation. A brief summary of data presented in prior sections and the adoption home study, supporting the recommendation regarding the adoption. (7-1-25)

(BREAK IN CONTINUITY OF SECTIONS)

CERTIFIED ADOPTION PROFESSIONAL
(Sections 889-899)

889. CERTIFIED ADOPTION PROFESSIONAL REQUIREMENTS.
An applicant requesting to become a Certified Adoption Professional must meet the following criteria: (3-15-22)

01. College Degree. A minimum of a bachelor's degree in a field deemed related to adoptions by the Department's Child and Family Services Program, such as social work, psychology, family counseling or other related behavioral science; (3-15-22)

02. Adoption Training. A minimum of twenty (20) hours of training in adoption services within the last four (4) years; (7-1-25)

03. Background Clearance. Complete a background check in accordance with ~~IDAPA 16.05.06, "Criminal History and Background Checks,"~~ Title 56, Chapter 27 Idaho Code "Background Checks" and receive a clearance; ~~(7-1-25)~~( )

04. License. A current license to practice social work in the state of Idaho; (3-15-22)

05. Experience. A minimum of two (2) years of experience as a paid full-time employee providing adoption services with a licensed private or public children's agency; (7-1-25)

06. References. Three (3) satisfactory references, one (1) of which must be from a previous employer for whom the applicant worked providing adoption services; (3-15-22)

07. Insurance. Verification of malpractice insurance that will provide coverage for the applicant's work as a certified adoption professional; and (3-15-22)

08. Application Fee. An application fee of one hundred dollars ($100) to be reimbursed, less a twenty-five dollar ($25) processing fee, in the event the application is denied. (3-15-22)

890. TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.

01. Certification. Certification for adoption professionals is completed through the Division of ~~Family and Community Services~~ Youth Safety and Permanency. Certifications are effective for a period of two (2) years. ~~(7-1-25)~~( )

02. Types of Certification. Certified adoption professionals may provide any, some, or all of the following services: (7-1-25)

a. Adoption home studies for families seeking domestic infant adoption. (3-15-22)

b. Adoption home studies for families seeking domestic special needs adoption. (3-15-22)

c. Adoption home studies for families seeking step-parent or relative adoption. (3-15-22)

d. Court ordered investigations for termination of parental rights for domestic private or independent adoptions. (3-15-22)

e. Court reports for domestic private or independent adoptions. (3-15-22)

f. Supervision of adoptive placements for domestic private or independent adoptions. (3-15-22)

03. Limits of Certification. Certified adoption professionals may not provide the following services: (3-15-22)

a. Birth parent education or counseling. (3-15-22)

b. Services related to international adoption. (3-15-22)

04. Recertification. Certified adoption professionals must apply for renewal of their certificate every two (2) years and must provide the following: (3-15-22)

a. Documentation of ten (10) hours of adoption training taken during the previous two (2) years; (3-15-22)

b. Verification of malpractice insurance; (3-15-22)

c. A satisfactory recommendation from the Division of ~~Family and Community Services~~ Youth Safety and Permanency designee responsible for the review of the certified adoption professional's work; and~~(7-1-25)~~( )

d. A certification fee of one hundred dollars ($100) to be reimbursed, less a twenty-five dollar ($25) processing fee, in the event the recertification is denied. (3-15-22)

05. Lapse of Certification. If a certified adoption professional does not apply for recertification within two (2) years in accordance with Subsection 890.04 of this rule, this will result in a lapse of certification. Any lapse in certification will require completion of a new certified adoption professional application, documentation of ten (10) hours of adoption training during the two (2) years previous to this new application, and a new background check. (7-1-25)

a. If the individual applying for certification has received a background check clearance in accordance with ~~IDAPA 16.05.06 "Criminal History and Background Checks~~ Title 56, Chapter 27 Idaho Code "Background Checks" within three (3) years of the date of this application and has not lived outside the state of Idaho since their last background check, all of the following must be conducted and no disqualifying crimes or appearance on a registry found: ~~(7-1-25)~~( )

i. A name-based background check by the Idaho State Police; (3-15-22)

ii. A check of the Idaho Child Protection Central Registry; (3-15-22)

iii. A check of the Idaho Adult Protection Registry; and (3-15-22)

iv. A check of the Idaho Sexual Offender Registry. (3-15-22)

b. If the individual has lived outside the state of Idaho for any amount of time during the three (3) years since the previous background check clearance, a new Department criminal history and background check clearance is required. (7-1-25)

06. Denial of Recertification. The ~~d~~Department may choose not to recertify a certified adoption professional. Notification of denial will be made by certified mail. The notice will state the specific grounds for denial of recertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 62.01.01, "Idaho Rules of Administrative Procedure," and Office of Administrative Hearings General Order No. 1. Grounds for denial of recertification are one (1) or more of the following: ~~(7-1-25)~~( )

a. Substandard quality of work following the development of a quality improvement plan; (3-15-22)

b. Failure to gain ten (10) additional hours of adoption continuing education required for recertification; (7-1-25)

c. A demonstrated pattern of negligence or incompetence in performing the duties of a certified adoption professional. (3-15-22)

d. Failure to maintain malpractice insurance; or (7-1-25)

e. Failure to maintain a license to practice social work in the state of Idaho. This requirement does not

apply to a certified adoption professional who has maintained their initial certification that occurred prior to July 1, 2012. (3-15-22)

07. Decertification. A certified adoption professional can be decertified by the ~~d~~Department at any time during a two (2) year period of certification. Notification of decertification will be made by the ~~d~~Department by certified mail. The notice will state the specific grounds for decertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 62.01.01, "Idaho Rules of Administrative Procedure," and Office of Administrative Hearings General Order No. 1. Grounds for decertification are one (1) or more of the following: ~~(7-1-25)~~( )

a. Conviction for a felony; (3-15-22)

b. Negligence in carrying out the duties of a certified adoption professional; (3-15-22)

c. Misrepresentation of facts regarding their qualifications or the qualifications of a prospective adoptive family to adopt, or both; (3-15-22)

d. Failure to obtain departmental review and approval of home studies court reports, and/or placement supervision reports, or both, on more than one (1) occasion; (7-1-25)

e. Failure to maintain malpractice insurance; (3-15-22)

f. Suspension or loss of a license to practice social work in Idaho; or (3-15-22)

g. Practice as a certified adoption professional outside the scope of the certification. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

893. RECORDS OF THE CERTIFIED ADOPTION PROFESSIONAL.
Records of the home studies, court reports, and supervisory reports provided by the certified adoption professional must be made available to the Division of ~~Family and Community Services~~ Youth Safety and Permanency designee two (2) weeks prior to the required court filing date. The designee will be responsible for monitoring ~~of~~ the quality of the services provided. ~~(7-1-25)~~( )

894. FEES CHARGED BY THE DEPARTMENT.
Monitoring fees will accompany the submission of each report and be paid directly to the Department through the Division of ~~Family and Community Services~~ Youth Safety and Permanency as follows:

Table 894 - Qualified Individuals	
Home Study or Court Report	$50
Supervision Report or Home Study Update	$30

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

895. DEPARTMENT RESPONSIBILITY TO CERTIFIED ADOPTION PROFESSIONAL.
The Division of ~~Family and Community Services~~ Youth Safety and Permanency is responsible for: ~~(3-15-22)~~( )

a. Reviewing and responding to submitted reports within five (5) business days; (3-15-22)

b. Initiation of corrective action plans when the documentation of a certified adoption professional is determined to be incorrect or substandard; and (3-15-22)

c. Dissemination of information to certified adoption professionals that may impact provided

services. (3-15-22)

896. -- 899. (RESERVED)

ADOPTION AND GUARDIANSHIP ASSISTANCE
(Sections 900-999)

900. CONDITIONS FOR ADOPTION ASSISTANCE.
The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of ~~Family and Community Services~~ Youth Safety and Permanency, for a determination of eligibility. Eligibility is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once an application for adoption assistance is submitted to the Division of ~~Family and Community Services~~ Youth Safety and Permanency, the Division will respond with a determination of the child's eligibility within forty-five (45) days. ~~(7-1-25)~~( )

01. Special Needs Criteria. The definition of special needs includes the following factors: (3-15-22)

a. The child cannot or should not be returned to the home of the parents as evidenced by an order from a court of competent jurisdiction terminating parents rights or its equivalent; and (3-15-22)

b. The child has a physical, mental, emotional, or medical disability, or is at risk of developing such disability based on the child's experience of documented physical, emotional, or sexual abuse, or neglect; or (3-15-22)

c. The child's age makes it difficult to find an adoptive home; or (3-15-22)

d. The child is being placed for adoption with at least one (1) sibling; and (3-15-22)

e. Reasonable but unsuccessful effort to place the child with special needs without a subsidy must be made, except in cases where it is not in the best interests of the child due to their significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. (7-1-25)

901. -- 907. (RESERVED)

908. TITLE IV-E ADOPTION ASSISTANCE.
The ~~d~~Department will remain in compliance with the requirements and benefits for federally funded adoption assistance benefits per the Social Security Act, most recently ~~updates~~ updated by the Family First Prevention Services Act of 2018 (P.L. 115-123). ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

910. TYPES AND AMOUNTS OF ASSISTANCE.
The needs of the child and the family, including any other children in the family, will be considered in determining the amount and type of support to be provided. Assistance may include the following: (3-15-22)

01. Nonrecurring Adoption Reimbursement. Payment for certain one-time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. (3-15-22)

a. The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption finalization and which are not incurred in violation of state or federal law. These expenses cannot be reimbursed if they are paid ~~for~~ on behalf of the adoptive parents by other sources such as an employer. ~~(7-1-25)~~( )

b. Documentation of expenses must be submitted. (3-15-22)

c. Costs are reimbursable up to two thousand dollars ($2,000) per child and are entered on adoption assistance program agreement. (7-1-25)

d. Children for whom the adoption has been finalized without a negotiated nonrecurring expenses reimbursement agreement are not eligible to apply for these benefits. (7-1-25)

02. Monthly Cash Payment. A monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the family services worker and based on the family's circumstances and what additional resources are needed to incorporate the child into the adoptive family. (7-1-25)

a. The amount must not exceed the rate for family foster care, which would be made if the child were in a family foster home in Idaho. (7-1-25)

b. Payments received for treatment foster care, gifts, clothing, and school fees are not considered part of the family foster care rate. (3-15-22)

c. For children who are currently eligible for Personal Care Services (PCS), the treatment foster care rate of up to a maximum of one thousand dollars ($1,000) per month may be used in negotiating the adoption assistance upon prior approval of the Department's ~~Family and Community Services (FACS)~~ Youth Safety and Permanency (YSP) Division Administrator. ~~(3-15-22)~~( )

03. Title XIX -- Medicaid Coverage. Any child with special needs who has an adoption assistance agreement in effect is eligible for medical coverage. (7-1-25)

04. Title XX -- Social Services. Any child with special needs who has an adoption assistance agreement is also eligible for state-authorized Title XX - Federal Social Services Block Grant funded services. (7-1-25)

911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.
A written agreement must be negotiated and fully executed between the ~~d~~Department and adopting family prior to the finalization of adoption and implementation of benefits. ~~(7-1-25)~~( )

01. Agreement Specifications. The agreement specifies the following: (3-15-22)

a. The type and amount of assistance to be provided; (3-15-22)

b. An annual review of each agreement will be conducted by the ~~d~~Department to evaluate the need for continued monthly cash payment and the amount of the payment; ~~(7-1-25)~~( )

c. The type and amount of assistance may be adjusted only with the concurrence of the adoptive parent(s) based upon changes in the needs of the child or changes in the circumstances of the adoptive family; (7-1-25)

d. The adoptive parent(s) are required to inform the ~~d~~Department of any circumstances that would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. ~~(7-1-25)~~( )

02. Termination of Adoption Assistance. Adoption assistance benefits are terminated if: (7-1-25)

a. The adoptive parent(s) no longer have legal responsibility for the child; (7-1-25)

b. The child is no longer receiving any financial support from the parents, or (7-1-25)

c. The child has reached the age of eighteen (18) years if the adoption was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday regardless of the child's educational status. (7-1-25)

03. Suspension of Adoption Assistance. Adoption assistance monthly cash payments will be suspended if the child is placed in foster care in any state. Benefits will be reinstated upon the child's reunification with the adoptive parent(s). (7-1-25)

04. Adoption Assistance Follows the Child. If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. Referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. Children receiving a state funded adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. (7-1-25)

912. -- 919. (RESERVED)

920. ADMINISTRATE REVIEW FOR ADOPTION ASSISTANCE.
Adoptive parents have twenty-eight (28) days from the date of the ~~d~~Department's notification of Title IV-E adoption assistance eligibility determination or change in adoption assistance benefits to request an administrative review. Notification will be made by mail of their right to appeal and procedures for filing an appeal. ~~(7-1-25)~~( )

01. Request for Reconsideration. Adoptive parents who were not informed of adoption assistance benefits prior to the finalization of their child's adoption may submit an application to the ~~d~~Department prior to the eighteenth birthday of the adopted child. ~~(7-1-25)~~( )

a. Eligibility is determined based on the eligibility factors for a special needs child that were in effect at the time of the child's adoption. (7-1-25)

b. If the eligibility determination finds a child was eligible for benefits at that time of the child's adoption, and an agreement was not signed prior to the finalization, the ~~d~~Department is required to deny benefits to the child, since no contract was in effect at the time of the adoption finalization. ~~(7-1-25)~~( )

c. The adoptive parent(s) may request an administrative hearing for Title IV-E adoption assistance eligibility determination. (7-1-25)

i. The determinations to be made at an~~d~~ administrative review hearing ~~is~~ are whether extenuating circumstances exist or whether the family was wrongly denied eligibility, or both. ~~(7-1-25)~~( )

ii. A favorable ruling from a fair hearing officer is required for the ~~d~~Department to change Title IV-E eligibility and provide adoption assistance based on extenuating circumstances. ~~(7-1-25)~~( )

921. RETROACTIVE ADOPTION ASSISTANCE BENEFITS.
The ~~d~~Department may negotiate retroactive adoption assistance benefits for a maximum of twenty-four (24) months from the date of adoption assistance application, identified in Section 920.01 of these rules. ~~(7-1-25)~~( )

922. CONDITIONS FOR GUARDIANSHIP ASSISTANCE.
The purpose of the guardianship assistance program is to encourage legal permanency of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of ~~Family and Community Services~~ Youth Safety and Permanency for a determination of eligibility. Eligibility is determined solely on the child's need. No means test may be applied to the income or resource of the prospective legal guardian(s). The following conditions must be met for a child to be eligible for guardianship assistance. ~~(7-1-25)~~( )

01. Assessment of Suitability. The suitability of an individual to become a legal guardian for a specific child or sibling group will be determined through a home study. (7-1-25)

02. Eligibility for Guardianship Assistance. Guardianship assistance will be determined for each

child placed in the legal custody of the ~~d~~Department prior to the finalization of the guardianship. Eligibility is based on the child's needs. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. The child will first be considered for eligibility for a federally-funded subsidy. Should the child be found ineligible for a federally-funded subsidy, the child will be considered for a state-funded subsidy. ~~(7-1-25)~~( )

03. Guardianship and Foster Care Licensure. To receive guardianship assistance, a potential legal guardian must be licensed or approved to provide foster care. (7-1-25)

923. TITLE IV-E GUARDIANSHIP ASSISTANCE.
In addition to Sections 922 and 926-928 of these rules, the ~~d~~Department will comply with the requirements and benefits of the Title IV-E Guardianship Assistance Program in the Social Security Act, made available by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351). ~~(7-1-25)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

925. TYPES AND AMOUNTS OF GUARDIANSHIP ASSISTANCE.

01. Nonrecurring Expenses. The ~~d~~Department will reimburse the cost, up to two thousand dollars ($2,000) of nonrecurring expenses associated with obtaining legal guardianship of a child eligible for Title IV-E or state-funded guardianship assistance. Financial assistance for legal fees may be provided regardless of the legal guardian's state of residence. ~~(7-1-25)~~( )

02. Monthly Cash Payment. The cash payment for Title IV-E or state-funded guardianship assistance may not exceed the published foster care rate a child would receive if living in family foster care in Idaho. Monthly cash payments are prospective only. There will be no retroactive benefits or payments. (7-1-25)

03. Title XIX Medicaid. (7-1-25)

a. A child eligible for Title IV-E guardianship assistance is eligible for Medicaid in the state where the child resides. (7-1-25)

b. A child eligible for state-funded guardianship assistance living in Idaho is eligible for Medicaid benefits. If the legal guardian moves to another state, they will be required to apply for Medicaid for the child in the new state of residency. (7-1-25)

926. GUARDIANSHIP ASSISTANCE PROGRAM AGREEMENTS.
The ~~d~~Department and the prospective legal guardian(s) must enter into a written agreement prior to the finalization of the guardianship. The ~~d~~Department will provide the prospective legal guardian(s) with a copy of the agreement. ~~(7-1-25)~~( )

01. Agreement Specifications. All guardianship assistance agreements will specify the following: (7-1-25)

a. The amount and manner in which the guardianship assistance payment will be provided to the prospective legal guardian; (7-1-25)

b. The manner in which the payment may be adjusted periodically in consultation with the legal guardian, based on the circumstances of the legal guardian and the needs of the child; (7-1-25)

c. Any additional services and assistance for which the child and the legal guardian will be eligible under the agreement; (7-1-25)

d. The procedure by which the legal guardian may apply for additional services; (7-1-25)

e. A statement that the agreement will remain in effect without regard to the state of residency of the legal guardian; (7-1-25)

f. The procedure by which the ~~d~~Department will make a mandatory annual evaluation of the need for continued assistance and the amount of the assistance; and ~~(7-1-25)~~( )

02. Termination of Guardianship Assistance. Guardianship assistance benefits and cash payments are automatically terminated when: (7-1-25)

a. A court terminates the legal guardianship or removes the legal guardian; (7-1-25)

b. The child no longer resides in the home of the legal guardian, and the legal guardian no longer provides financial support for the child; (7-1-25)

c. The child has reached the age of eighteen (18) years if the guardianship was finalized prior to the child's sixteenth (16) birthday or twenty-one (21) years if finalized after the child's sixteenth (16) birthday, regardless of the child's educational status or physical or developmental delays; or (7-1-25)

d. The child marries, dies, or enters the military. (7-1-25)

03. Suspension of Guardianship Assistance. Guardianship assistance monthly cash payments will be suspended if the child is placed in foster care in any state. Benefits will be reinstated upon the child's reunification with the legal guardian(s). (7-1-25)

927. ADMINISTRATIVE REVIEW FOR GUARDIANSHIP ASSISTANCE.
The prospective legal guardian has twenty-eight (28) days from the date of the ~~d~~Department's notification of the guardianship assistance determination, to request an administrative review. The determination will be reviewed ~~by the FACS Division Administrator,~~ and a decision will be rendered to either affirm, reverse, or modify, the decision. The department will notify the individual, by mail, of the ~~FACS Division Administrator's~~ Department's decision, of their right to appeal, and procedures for filing an appeal. ~~(7-1-25)~~( )

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.02.01 – RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

DOCKET NO. 20-0201-2601

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 38-1304, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Friday, October 9, 2026 10:00 a.m. (PT)	Tuesday, October 27, 2026 10:00 a.m. (MT)
In Person **Idaho Department of Lands** **Coeur d'Alene Staff Office** **Sundance Conference Room** **3284 W. Industrial Loop** **Coeur d'Alene, Idaho** **Virtual:** **Join: https://teams.microsoft.com/meet/273430295309372?p=KuUPVY8quQY5DG3AAQ** **Meeting ID: 273 430 295 309 372** **Passcode: Ud6kA6NA**	**In Person** **Idaho Department of Lands** **Boise Staff Office** **Garnet Conference Room** **300 N 6th Street, Suite 103** **Boise, Idaho** **Virtual:** **Join: https://teams.microsoft.com/meet/237558259042152?p=089439dLmBn5wmJI4a** **Meeting ID: 237 558 259 042 152** **Passcode: Ei2nA9sw**

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 purpose of this rulemaking is to implement Idaho Code §38-1304(1)(f) by establishing provisions related to the timely salvage of dead, dying, or threatened timber when practicable, on non-private forest lands of 2,000 contiguous acres or more.

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

There are no fees associated with this rulemaking.

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

There will be no fiscal impact greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol. 26-7 pg. 77.

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 associated with this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jeanne Bradley, 208-666-8638.

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 28, 2026.

DATED this 3rd day of August, 2026.

Jeanne Bradley
Regulatory and Stewardship Program Manager
Idaho Department of Lands
Forestry Assistance Bureau
3284 W. Industrial Loop,
Coeur d'Alene, Idaho 83815
Phone: 208-769-1525
Fax: 208-769-1524
rulemaking@idl.idaho.gov
www.idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0201-2601
(Only Those Sections With Amendments Are Shown.)

20.02.01 – RULES PERTAINING TO THE IDAHO FOREST PRACTICES ACT

072. -- ~~999~~079. (RESERVED)

080. SALVAGE HARVESTING.

01. Purpose. The purpose of this section is to implement Idaho Code § 38-1304(1)(f). Timely salvage of dead, dying, or threatened timber is a part of forest management. The Department shall recognize and where appropriate utilize interagency agreements and authorities established to foster improved forest management. ( )

02. Timely Salvage of Dead Dying or Threatened Timber. Timely salvage should be conducted, when feasible, on non-private forest lands of a single ownership two thousand (2,000) contiguous acres or more where timber is dead, dying, or is threatened by insects, disease, or such physical elements as fire, and windthrow. ( )

a. In determining whether timely salvage is feasible, the following factors shall be considered: ( )

i. Economic value of the timber to be salvaged; ( )

ii. Immediate costs of salvage efforts; ( )

iii. Long-term costs to all forest resources and values, including, but not limited to, forest health, wildlife habitat, soil productivity, air quality, and ecosystem functions, associated with insect and disease or fire conditions that might otherwise be controlled by the salvage operations; ( )

iv. Site conditions including but not limited to access and operational constraints; and ( )

v. Public safety. ( )

081. -- 999. (RESERVED)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-2601 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2406(1), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (https://dopl.idaho.gov/calendar/) and https://townhall.idaho.gov.

Thursday, October 15, 2026
9:00 a.m. (MT)

Virtual Webex Meeting Link
Meeting Number: 2632 274 7730
Password: aFpMHJfu723

Thunderbolt Conference Room
Division of Occupational and Professional Licenses
11341 W. Chinden Blvd., Bldg. 4
Boise, ID 83714

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

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

The contemplated rule changes would seek to address the Board's cash balance to align with Section 67-2608, Idaho Code, by increasing the licensing fees administered by the Board and to address other minor changes.

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

This proposed rule will increase the fee for licensure from thirty dollars ($30) to seventy-five dollars ($75) as authorized by Section 54-2407(1), Idaho Code. The purpose of this fee increase is to address the Board's negative cash balance as required to by Section 67-2608, Idaho Code, which requires all Board's maintain a cash balance of thirty percent (30%) to one hundred and fifty percent (150%) of the Board's five-year average rolling of expenditures.

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:

No fiscal impact on the state general fund will occur as a result of these changes.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol 26-7, Pages 79-80.

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 Ryan Bernard, Legislative & Regulatory Affairs Chief, at (775) 870-7926. Materials pertaining to this rulemaking, including any available preliminary rule drafts, can be found on the DOPL website at the following web address: https://dopl.idaho.gov/rulemaking/.

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 28, 2026.

DATED this 28th day of August, 2026.

Ryan Bernard
Legislative and Regulatory Affairs Chief
PO Box 83720
Boise, ID 83720-0063
Phone: (775) 870-7926
Email: ryan.bernard@dopl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-0501-2601
(Only Those Sections With Amendments Are Shown.)

24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

400. FEES.

TYPE	AMOUNT (Not to Exceed)
Application	$25
License or Certificate	$~~30~~75 annually
Reinstatement	$35

~~(7-1-24)~~( )

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD

DOCKET NO. 24-3910-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (https://dopl.idaho.gov/calendar/) and https://townhall.idaho.gov.

Thursday, October 15, 2026
9:30 a.m. (MT)

Virtual Webex Meeting Link
Meeting Number: 2870 304 1989
Password: b3eFsFYJd32

Thunderbolt Conference Room
Division of Occupational and Professional Licenses
11341 W. Chinden Blvd., Bldg. 4
Boise, ID 83714

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

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

In accordance with Section 67-5292, Idaho Code, the Division is reviewing IDAPA 24.39.10 to assess whether the content of the rule chapter is still necessary. Through negotiated rulemaking, the Division explored opportunities to add more exceptions and exemptions to allow for greater flexibility within the current rules and potentially decrease the cost of doing business in the State of Idaho.

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:

No fiscal impact on the state general fund will occur as a result of these changes.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Vol 26-7, Pages 83-84.

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 Ryan Bernard, Legislative & Regulatory Affairs Chief, at (775) 870-7926. Materials pertaining to this rulemaking, including any available preliminary rule drafts, can be found on the DOPL website at the following web address: https://dopl.idaho.gov/rulemaking/.

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 28, 2026.

DATED this 28th day of August, 2026.

Ryan Bernard
Legislative and Regulatory Affairs Chief
PO Box 83720
Boise, ID 83720-0063
Phone: (775) 870-7926
Email: ryan.bernard@dopl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-3910-2601
(Only Those Sections With Amendments Are Shown.)

24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD

200. PRACTICE STANDARDS.

01. Electrical Contracting Work. Contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. (3-28-23)

02. Contractor Scope. A contractor's allowable scope of work is the same as the scope of its licensed employee. (3-28-23)

03. Supervision. (3-28-23)

a. The master electrician, journeyman electrician, residential electrician or limited electrical installer shall be designated the supervising electrician; must be available during working hours to carry out the duties of supervising, as set forth herein; and will be responsible for supervision of electrical installations made by said contractor as provided by Section 54-1010, Idaho Code. Any supervisory activities shall fall within the supervising electrician's licensed scope of practice. (4-4-25)

i. A master electrician, journeyman electrician, residential electrician, or limited electrical installer is not qualified for one (1) year as the supervising electrician if his contractor license was revoked. (4-4-25)

ii. An individual contractor may act as his own supervising master electrician, journeyman electrician, residential electrician, or limited electrical installer upon the condition that he holds an active master electrician, journeyman electrician, residential electrician, or limited electrical installer license. (4-4-25)

b. The employing contractor or limited electrical contractor must ensure each apprentice, trainee, and

provisional journeyman electrician performs electrical work only under the constant on-the-job supervision and training of a master electrician, journeyman electrician, residential electrician or limited electrical installer. (4-4-25)

c. A journeyman who is an employee of a company, corporation, firm, or association with a facility account may sign as supervising electrician for that facility account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner. (3-28-23)

04. Connecting and Energizing Prior to Inspections. At the request of a licensed electrical contractor and upon receipt of a copy of an electrical permit, a power supply company may connect and energize an electrical service, to the line side of the service disconnect, prior to a passed inspection in the following situations: to preserve life or property or to provide temporary service for construction. Any contractor energizing an electrical installation prior to an inspection assumes full responsibility for the installation. (3-28-23)

05. Limited Electrical Installations. A limited electrical installer must be employed by an electrical contractor or limited electrical contractor in the same restricted category and may only countersign a limited electrical contractor's license application as supervising limited electrical installer for work within the same restricted category. Limited electrical installations must comply with the National Electrical Code, as amended herein. The following categories of electrical installations constitute limited electrical installations, the practice of which shall require an electrical contractor or limited electrical contractor license and supervision by a journeyman, master electrician, or limited electrical installer: (3-28-23)

a. Elevator, Dumbwaiter, Escalator, or Moving-Walk Electrical. An elevator electrical limited licensee is only authorized to install, maintain, repair, and replace equipment, controls, and wiring beyond the disconnect switch in the machine room of the elevator and pertaining directly to the operation and control thereof when located in the elevator shaft and machine room. (3-28-23)

b. Sign Electrical. A sign electrical limited licensee is only authorized to install, maintain, repair, and replace equipment, controls, and wiring on the secondary side of sign disconnecting means; provided the disconnecting means is located on the sign or within sight therefrom. (3-28-23)

c. Manufacturing or Assembling Equipment. A licensed limited electrical manufacturing or assembling equipment installer is only authorized to install, maintain, repair, and replace equipment, controls, and accessory wiring, integral to the specific equipment, on the load side of the equipment disconnecting means. Electrical service and feeder are to be installed by others. The licensee may also install circuitry in modules or fabricated enclosures for the purpose of connecting the necessary components which individually bear a label from a nationally recognized testing laboratory when such equipment is designed and manufactured for a specific job installation. (3-28-23)

i. This subsection does not apply to a limited electrical manufacturing or assembling equipment installer installing electrical wiring, equipment, and apparatus in modular buildings as that phrase is defined in Section 39-4105, Idaho Code. Only journeyman electricians and electrical apprentices, employed by an electrical contractor, may perform such installations. (3-28-23)

d. Limited Energy Electrical. Limited energy systems are defined as fire and security alarm systems, class 2 and class 3 signaling circuits, key card operators, nurse call systems, motor and electrical apparatus controls and other limited energy applications covered by the NEC. Unless exempted by Section 54-1016, Idaho Code, any person who installs, maintains, replaces or repairs electrical wiring and equipment for limited energy systems in facilities other than one (1) or two (2) family dwellings shall be required to have a valid limited energy limited electrical license. (3-28-23)

i. Limited energy systems do not include, and no license of any type is required for, the installation of landscape sprinkler controls or communication circuits, wires and apparatus that include telephone systems, telegraph facilities, outside wiring for fire and security alarm systems which are used for communication purposes, and central station systems of a similar nature, PBX systems, audio-visual and sound systems, public address and intercom systems, data communication systems, radio and television systems, antenna systems and other similar systems. (3-28-23)

e. Irrigation Sprinkler Electrical. An irrigation system electrical limited licensee is only authorized to install, maintain, repair and replace equipment, controls and wiring beyond the disconnect switch supplying power to the electric irrigation machine. The irrigation machine is considered to include the hardware, motors and controls of the irrigation machine and underground conductors connecting the control centers on the irrigation machine to the load side of the disconnecting device. Disconnect device to be installed by others. (3-28-23)

~~**f.** Well Driller and Installer. (4-4-25)~~

gf. Water Pump Installer. A license holder in this category is only authorized to perform the following types of installations: (3-28-23)

i. Single or three (3) phase water pumps: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (3-28-23)

ii. Domestic water pumps, one hundred twenty/two hundred forty (120/240) volt, single phase, sixty (60) amps or less: install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device. (3-28-23)

iii. Temporarily connect into a power source to test the installations, provided that all test wiring is removed before the installer leaves the site. (3-28-23)

iv. Individual residential wastewater pumping units. Install, maintain, repair and replace all electrical equipment, wires, and accessories from the pump motor up to and including the disconnecting device for systems that serve one-family, two-family, or three-family residential installations. (3-28-23)

hg. Refrigeration, Heating, and Air-Conditioning Electrical Installer. A license holder in this category is only authorized to perform the following types of installations, which installations shall be limited to factory-assembled, packaged units: (3-28-23)

i. Heating Units (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (3-28-23)

ii. Refrigeration, Air-Conditioning Equipment and Heat Pumps (single phase): install, repair, and maintain all electrical equipment, wires, and accessories from the unit up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (3-28-23)

iii. Refrigeration, Air-Conditioning and Heating Systems (three (3) phase): install, maintain, and repair all electrical equipment and accessories up to the load side, including fuses, of the disconnecting device. Disconnecting device to be installed by others. (3-28-23)

ih. Outside Wireman. Applicants for this license category shall provide documentation of having completed an electrical lineman apprenticeship program or similar program approved by the U.S. Department of Labor, Office of Apprenticeship. Any person currently licensed in this category is only authorized to perform the following types of installation (3-28-23)

i. Overhead distribution and transmission lines in excess of six hundred (600) volts (3-28-23)

ii. Underground distribution and transmission lines in excess of six hundred (600) volts. (3-28-23)

iii. Substation and switchyard construction in excess of six hundred (600) volts. (3-28-23)

ji. Solar Photovoltaic. Applicants for this license category shall provide proof of photovoltaic installer certification by the North American Board of Certified Energy Practitioners (NABCEP) or equivalent. Any person licensed in this category is only authorized to perform the following types of installations: (3-28-23)

i. Solar Photovoltaic DC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the inverter. (3-28-23)

ii. Solar Photovoltaic micro-inverter/AC Systems: Install, maintain, repair, and replace all electrical equipment, wires, and accessories up to and including the AC combiner box. (3-28-23)

06. Certification and Approval of Electrical Products and Materials. All materials, devices, fittings, equipment, apparatus, luminaires, and appliances installed or to be used in installations that are supplied with electric energy must be approved as provided in one (1) of the following methods: (3-28-23)

a. Testing Laboratory. Be tested, examined, and certified (Listed) by a Nationally Recognized Testing Laboratory (NRTL). (3-28-23)

b. Field Evaluation. Non-listed electrical equipment may be approved for use through a field evaluation process performed in accordance with recognized practices and procedures such as those contained in the 2012 edition of NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA). Such evaluations shall be conducted by: (3-28-23)

i. A field evaluation body approved by the authority having jurisdiction. The field evaluation body shall meet minimum recognized standards for competency, such as NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies, 2012 edition, published by the National Fire Protection Association (NFPA); or (3-28-23)

ii. In the case of industrial machinery only, as defined by NFPA 79 - Electrical Standard for Industrial Machinery, 2012 edition, a field evaluation may be performed by a professional engineer currently licensed to practice electrical engineering by the state of Idaho and who is not involved in the design of the equipment being evaluated or the facility in which the equipment is to be installed. (3-28-23)

c. Availability of NFPA Standards. The most recent edition of NFPA 790 - Standard for Competency of Third-Party Field Evaluation Bodies and NFPA 791 - Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation published by the National Fire Protection Association (NFPA) are available at the Division. (3-28-23)

(BREAK IN CONTINUITY OF SECTIONS)

500. PERMITS AND INSPECTIONS.

01. Permits and Inspections. (3-28-23)

a. Permits. All electrical permits shall be purchased before work is commenced. Payment of the total permit fee shall be made prior to a final inspection. (3-28-23)

i. No wiring or equipment may be concealed in any manner from access or sight until the work has been inspected and approved for cover by the electrical inspector except for those installations pursuant to Section 54-1005(3), Idaho Code. (3-28-23)

b. Completion of Installation. Each installation made by a permit holder or his authorized representative shall request an inspection from the Division. (3-28-23)

c. Expiration of Permits. Every permit issued shall expire and become null and void after three hundred sixty-five (365) days from the purchase date or the date of the last inspection. A permit may be renewed for an additional year upon receipt of Division approval and payment of a sixty-five dollar ($65) renewal fee.
~~(3-28-23)~~( )

d. Transferring a Permit. A permit may be transferred to another eligible party if such party provides

to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself and assigning all responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the electrical work is to be performed and for which the permit was issued or such owner's designated legal agent in cases where such owner has terminated his legal relationship with the electrical contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars ($45) for the transfer of the permit shall be assessed by the Division. (3-28-23)

02. Fee Schedule. (3-28-23)

a. Residential Permits. Includes associated buildings with wiring being constructed on each property. (3-28-23)

i. New residential construction permits: (3-28-23)

New One- Family Dwelling Unit	
Up to 1,500 square feet of living space	$130
1,501 to 2,500 square feet of living space	$195
2,501 to 3,500 square feet of living space	$260
3,501 to 4,500 square feet of living space	$325
Over 4,500 square feet of living space	$325 plus $65 for each additional 1,000 square feet or portion thereof
New Two- and Multi- Family Dwelling Unit	
Two-family dwellings	$260
Multi-family dwellings	$130 per building plus $65 per unit

(3-28-23)

ii. Existing Dwelling Unit Permit: sixty-five dollars ($65) per inspection. (3-28-23)

b. Other Installations Including Industrial and Commercial Permits. The following fees shall apply to industrial and commercial installations and installations not specifically mentioned elsewhere in this Fee Schedule. The electrical cost shall be the cost to the owner of all labor charges and all other costs that are incurred to complete the installation of all wiring and equipment installed as part of the system. Factory assembled industrial machinery to be operated by electrical energy shall not be included in calculating these fees. (3-28-23)

i. Wiring cost not exceeding ten thousand dollars ($10,000): sixty dollars ($60) plus two percent (2%) of total wiring cost. (3-28-23)

ii. Wiring cost over ten thousand dollars ($10,000) but not exceeding one hundred thousand dollars ($100,000): two hundred sixty dollars ($260) plus one percent (1%) of wiring cost in excess of ten thousand dollars ($10,000). (3-28-23)

iii. Wiring cost over one hundred thousand dollars ($100,000): one thousand one hundred sixty dollars ($1,160) plus one-half of one percent (.5%) of the portion of wiring costs exceeding one hundred thousand dollars ($100,000). (3-28-23)

iv. Small work not exceeding five hundred dollars ($500) in cost and not involving a change in service connections: ten dollars ($10). (3-28-23)

03. Requested Inspection Permit. A sixty-five dollar ($65) fee per inspection. (3-28-23)

04. Reinspection Fees. A fee of sixty-five dollars ($65) per reinspection will be assessed for work not being ready for inspection, inaccurate description of jobsite locations or directions, or failure to respond to notice of correction. (3-28-23)

05. Virtual Inspection Request. Forty-five dollar ($45) fee for Contractors and Specialty Contractors requesting a virtual inspection of qualified installations. (3-28-23)

06. Plan Check Fee. Sixty-five dollar ($65) minimum for one (1) hour or less. Over one (1) hour: sixty-five dollars ($65) plus sixty-five dollars ($65) for each hour, or portion thereof, in excess of one (1) hour. (3-28-23)

501. – 599. (RESERVED)

600. IDAHO ELECTRICAL CODE.

01. Documents. Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2023 Edition, (herein NEC) is amended as follows: (4-4-25)

a. Sections 110.3(A) and 110.3(B). Shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. (4-4-25)

b. Section 210.8(A). Delete reference to 250-volt receptacles. Exception No. 5: GFCI protection shall not be required for 125-volt 30-ampere receptacles used in RV site equipment. ~~(4-4-25)~~( )

c. Section 210.8(A)(5). Delete section 210.8(A) list item (5) and replace with the following: Unfinished areas of basements. (4-4-25)

d. Exception No. 6: Within residential kitchens, GFCI protection is not required for garbage disposals or refrigerators. ( )

~~d~~e. Section 210.8(A)(7). Delete section 210.8(A) list item (7). Areas with sinks and permanent provisions for food preparation, beverage preparation, or cooking. (4-4-25)

ef. Section 210.8(A)(8). Delete section 210.8(A) list item (8) and replace with the following: Sinks - located in areas other than kitchens where receptacles are installed within one and eight tenths (1.8) meters (six (6) feet) of the inside edge of the sink. (4-4-25)

~~f~~g. Section 210.8(A)(11). Delete section 210.8(A) list item (11) Laundry Areas. (4-4-25)

~~g~~h. Article 210.8(B). Delete list items (3) Areas with sinks and permanent provisions for food preparation, beverage preparation, or cooking, (4) serving areas with permanent provisions for food serving, or cooking, and (14) Laundry areas. Exception No. 7: GFCI protection shall not be required for 125-volt 30-ampere receptacles used in RV site equipment. ~~(4-4-25)~~( )

~~h~~i. Section 210.8(B)(7). Delete section 210.8(B) list item (7) and replace with the following: Sinks - located in kitchens and any other area where receptacles are installed within one and eight tenths (1.8) meters (six (6) feet) of the inside edge of the sink. (4-4-25)

~~i~~j. Section 210.8(D). In dwelling units only, delete list items (7) Dishwashers, (8) Electric ranges, (9) Wall-mounted ovens, (10) Counter-mounted cooking units, (11) Clothes dryers, and (12) Microwave ovens. (4-4-25)

~~j~~k. Section 210.8(F). Delete list items (1) Garages that have floors that are located at or below grade level and (2) Accessory buildings. (4-4-25)

~~k~~l. Section 210.12(B). Shall apply in full. Exception: In one- and two-family dwelling units, Arc-Fault Circuit-Interrupter Protection shall only apply to all branch circuits and outlets supplying bedrooms. All other locations in such units are exempt from the requirements of section 210.12(B). (4-4-25)

~~l~~m. Section 210.52 (C) add list item (4) - Island Countertop Spaces and Peninsular Countertop Spaces. If installed, receptacle outlets shall also be permitted to be mounted not more than 300 mm (12 in.) below the countertop or work surface. Receptacles mounted below a countertop or work surface in accordance with this exception shall not be located where the countertop or work surface extends more than 150 mm (6 in.) beyond its support base. (4-4-25)

~~m~~n. Section 210.52(E)(3). Delete section 210.52(E) list item (3) and replace with the following: Balconies, Decks, and Porches. Balconies, decks, and porches having an overall area of twenty (20) square feet or more that are accessible from inside the dwelling unit shall have at least one (1) receptacle outlet installed within the perimeter of the balcony, deck, or porch. The receptacle shall not be located more than two (2.0) meters (six and one half (6½) feet) above the balcony, deck, or porch surface. (4-4-25)

~~n~~o. Section 215.18 Surge Protection shall apply in full. Exception: for dwelling units, surge protection device shall be permitted when installed in compliance with 215.18(B) through (E). Delete section 215.18(A) list item (1). (4-4-25)

~~o~~p. Article 225.41 Emergency Disconnects. For one- and two-family dwelling units, an emergency disconnecting means shall be permitted when installed in compliance with sections 225.41(A), (B), and (C). (4-4-25)

~~p~~q. Section 225.42 Surge Protection shall apply in full. Exception: For dwelling units, a surge protection device shall be permitted when installed in compliance with 225.42 (B) though (E). Delete section 225.42(A) list item (1). (4-4-25)

~~q~~r. Section 230.67 Surge Protection shall apply in full. Exception: For dwelling units, a surge protection device shall be permitted when installed in compliance with 230.67 (B) through (E). Delete section 230.67(A) list item (1). (4-4-25)

~~r~~s. Article 230.85 Emergency Disconnects. For one- and two-family dwelling units, an emergency disconnecting means shall be permitted when installed in compliance with sections 230.85(A), (B), (D), and (E). Delete section 230.85(C). (4-4-25)

~~s~~t. Section 314.27(C) Boxes at Ceiling-Suspended (Paddle) Fan Outlets. Delete second paragraph. (4-4-25)

~~t~~u. Section 334.10(3). Delete and replace with the following: Other structures permitted to be of Types III, IV, and V construction. Cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a fifteen (15) minute finish rating as identified in lists of fire-rates assemblies. For the purpose of this section, cable located in attics and underfloor areas that are not designed to be occupied shall be considered concealed. (4-4-25)

~~u~~v. Section 334.15(C). Where the height of a crawl space does not exceed one and four tenths (1.4) meters or four and one half (4.5) feet, it shall be permissible to secure NM cables, that run at angles with joist, to the bottom edge of joist. NM cables that run within two and one tenth (2.1) meters or seven (7) feet of crawl space access shall comply with article 320.23. (4-4-25)

~~v~~w. Pole Lighting. Poles used as lighting standards along roadways only (parking areas are not roadways) that are forty (40) feet or less in nominal height and that support no more than four (4) luminaries operating at a nominal voltage of three hundred (300) volts of less to the ground, shall not be considered a structure as it is defined as equipment by the NEC. The disconnecting means may be mounted to the pole or elsewhere in accordance with NEC, section 225.31(B), exception 3. Special purpose fusible connectors (model SEC 1791-DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to article 230 – Services. Overcurrent protection shall be provided by a (fast-acting – minimum 100K RMS Amps 600 VAC) rated fuse. Wiring

within the pole for the luminaries shall be protected by supplementary overcurrent device (time -delay – minimum 10K RMS Amps 600 VAC) in break-a-away fuse holder accessible from the handhole. Any poles supporting of incorporating utilization equipment or exceeding the prescribed number of luminaries, or in excess of forty (40) feet, may be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire – supporting poles shall be appropriately grounded and bonded per the NEC. A service may not need a Watt Hour Meter. (4-4-25)

~~w~~x. Section 422.5(A)(7). Delete section 422.5(A) list item (7) dishwashers. (4-4-25)

y. Section 625.60 (D). 250-volt receptacles in dwelling units for EVPE are not required to have GFCI protection for personnel. (____)

~~x~~z. Section 675.8(B). Compliance with section 675.8(B) shall include the additional requirement that a disconnecting means always be provided at the point of service then the utility no matter where the disconnecting means for the machine is located. (4-4-25)

~~y~~aa. Article 682.10. Shall not apply to submersible well pumps installed in swimming and marine areas; provided however, such articles shall apply to all other equipment required in the installation of a submersible well pump in such areas except for the actual submersible well pump itself. (4-4-25)

~~z~~bb. Article 682.11. Add the following exception: This article shall not apply to service equipment that is located on or at the dwelling unit and which is not susceptible to flooding. (4-4-25)

~~aa~~cc. Article 682.13. Add the following exceptions: (4-4-25)

i. Exception No. 1. Wiring methods such as HDPE schedule eighty (80) conduit or its equivalent or greater and clearly marked at a minimum "Caution Electrical" to indicate that it contains electrical conductors shall be approved. It shall be buried wherever practical, and in accordance with the requirements of the authority having jurisdiction. The use of gray HDPE water pipe rated at two hundred (200) PSI (e.g. SIDR-7 or DR-9) is suitable for use as a chase only when the following conditions are met: when internal conductors are jacketed submersible pump cable; when used in continuous lengths, directly buried, or secured on a shoreline above and below the water line; when submersible pump wiring terminations in the body of water according to section 682.13 Exception No. 2 are met. (4-4-25)

ii. Exception No. 2. Any listed and approved splices required to be made at the submersible well pump itself, outside of a recognized submersed pump sleeve or housing, when wires are too large to be housed inside such sleeve, shall be covered with a non-metallic, impact resistant material, no less than one quarter (.25) inches thick, such as heavy-duty heat shrink or other equivalent method approved by the authority having jurisdiction. (e.g. install a heat shrink over the sleeve or housing that the submersible well pump is installed in, and then recover (apply heat) the heat shrink over both the HDPE and the water line). At least six (6) inches shall be over the sleeve and at least twelve (12) inches over the HDPE and water line. (4-4-25)

iii. Exception No. 3. Pipe, conduit, PVC well casing, or other electrically unlisted tubing may be used as a chase, but not as a raceway, to protect conductors or cables from physical damage. Conductors or cables within a chase shall be rated for the location. (4-4-25)

~~bb~~dd. Article 682.14. Add the following additional exception: For installations of submersible well pumps installed in public swimming and marine areas, submersible well pumps shall be considered directly connected and shall be anchored in place. Ballast is an acceptable form of anchoring. (4-4-25)

~~cc~~ee. Section 682.14(A). Add the following exception: For installations of submersible well pumps installed in public swimming and marine areas, motor controller circuits such as remotely located stop pushbutton/s, disconnect/s, relay/s or switches shall be permitted as a required disconnecting means. Such circuits shall be identified at a minimum as "Emergency Pump Stop", or "Emergency Stop" with other obvious indications on the visible side of the enclosure, that it controls a submersible pump in the body of water. (4-4-25)

~~dd~~ff. Article 682.15. Add the following exceptions: (4-4-25)

i. Exception No. 1. Submersible pumps, and their motor leads, located in bodies of water, and that are rated sixty (60) amperes maximum, two hundred fifty (250) volts maximum of any phase, shall have GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, protected by means selected by a licensed installer, meeting listing or labeling requirements, and inspected by the AHJ prior to submersion in bodies of water. (4-4-25)

ii. Exception No. 2. Installations or repair and replacement of submersible pumps located in bodies of water, that are rated over sixty (60) amperes, and rated at any voltage, shall be evaluated by a qualified designer or experienced licensed contractor, or involve engineering or be engineered, for each specific application, with the goal of public safety. Whenever possible, GFCI or Ground Fault Equipment Protection designed to trip at a maximum of thirty (30) milliamps or less, meeting listing or labeling requirements, shall be installed, and inspected by the AHJ prior to submersion in bodies of water. (4-4-25)

~~ee~~gg. Article 690.12 Rapid Shut Down. Add following Exemptions: (4-4-25)

i. Detached structures whose sole purpose is to house PV system equipment shall not be subject to the requirements outlined in article 690.12. (4-4-25)

ii. PV system circuits installed on or in buildings without the presence of a utility supplied power source shall not be required to comply with article 690.12 where all of the following apply: the minimum distance to bring electric utility power lines or service conductors to the building is 1,000 feet or greater; the building has a minimum setback distance of 100 feet from any building or structure located on adjacent properties; A lockable service entrance rated AC disconnect is installed outside at a readily accessible location; and the AC disconnect has a permanent placard or label with the following words or equivalent:

WARNING
SOLAR PV SYSTEM IS NOT EQUIPPED WITH RAPID SHUTDOWN

The warning placard or label shall comply with Section 110.21(B). (4-4-25)

~~ff~~hh. Section 690.12(A) Exception. PV system circuits originating within or from arrays not attached to buildings that terminate on the exterior of buildings or inside nearest the point of entrance, and PV system circuits installed in accordance with article 230.6 shall not be considered controlled conductors for the purposes of this section. (4-4-25)

~~gg~~ii. Article 706.5: Listing. Energy storage systems shall be listed. This shall not apply to lead-acid batteries. (4-4-25)

~~hh~~jj. Section 706.15(B) Off Grid Systems. Add the following exception: For one-family and two-family dwellings, a disconnecting means or its remote control shall be located at a readily accessible location. (4-4-25)

02. Availability. A copy of the 2023 National Electrical Code is available at the offices of the Division of Occupational and Professional Licenses. (4-4-25)

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

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

DOCKET NO. 26-0120-2601 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4223 and 67-4249 Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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 update fees to align with economic climate. The proposed are fee caps. The Idaho Parks and Recreation Board has the authority to set the fees within these caps.

250. FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.

Category	Fee
Basic Campsite: site may have water	$34/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 SUMMARY: The following is a specific description of the fee or charge imposed or increased:

IDPR is a dedicated funded agency. IDPR needs to see fee increases to cover the rising costs of providing electricity, water, and sewage services to those sites. IDPR needs to do this to remain fiscally solvent. Fees for Basic campsites that do not offer these services will not be increased. These are fee maximum caps. The IDPR board has the authority to set the fee within these caps. (67-4223)

- Electric Campsite from $42 to $56
- Full Hook-up Campsite $46 to $60

- Companion Campsite $84 to $112
- Use of Campground Showers by Non-campers $3 to $5

The below amounts are the estimated yearly dedicated fund increases to the department if the board ever decides to raise the fees to the maximum. Monies received from any increase will be used for ongoing department operations.

- Electric: $1,650,908.00
- Full Hook-up: $360,934.00
- Companion: $273,140.00
- Use of Campground Showers by Non-Campers: $120.00

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year resulting from this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 5, 2026, Idaho Administrative Bulletin, Vol. 26-08, page 34-35.

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 the proposed rule, contact Seth Hobbs, (208) 514-2410, seth.hobbs@idpr.idaho.gov. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2026.

DATED this 27th day of August, 2026.

Seth Hobbs
Idaho Department of Parks and Recreation
5657 Warm Springs Ave.
Boise, ID 83716
Phone: (208) 514-2410

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 26-0120-2601
(Only Those Sections With Amendments Are Shown.)

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

250. FEE SCHEDULE: INDIVIDUAL CAMPSITE OR FACILITY.

Category	Fee
Basic Campsite: site may have water	$34/day
Electric Campsite: site has electricity and may have water	$~~42~~56/day

Category	Fee
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

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

IDAPA 28 – IDAHO DEPARTMENT OF COMMERCE

28.04.01 – RULES GOVERNING THE IDAHO REIMBURSEMENT INCENTIVE ACT

DOCKET NO. 28-0401-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-4702(2) and 67-4744, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

In accordance with Section 67-5292, Idaho Code, the Department is reviewing IDAPA 28.04.01 to assess whether the content of the rule chapter is still necessary. Through negotiated rulemaking, the Department identified opportunities to streamline the rule by eliminating duplicative language already established in statute, replacing unnecessary regulatory language with direct statutory references, and retaining the administrative provisions necessary to implement the program.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026 Idaho Administrative Bulletin, Bulletin Vol. 26-7 pg. 85-86.

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 Ewa Szewczyk 208-287-0784, rulesreview@commerce.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28th.

DATED this 28th day of August, 2026.

Ewa Szewczyk
Grants/Contracts Manager Compliance
Idaho Commerce
700 W State Street
Boise, Idaho 83702
Email: Rulesreview@commerce.idaho.gov
Office: 208.334.2470
Direct: 208.287.0784

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 28-0401-2601
(Only Those Sections With Amendments Are Shown.)

28.04.01 – RULES GOVERNING THE IDAHO REIMBURSEMENT INCENTIVE ACT

001. SCOPE.
These rules implement the Idaho Reimbursement Act, including application and pre-application process, formation of incentive agreements with the business entity, reimbursement to the business entity through an earned tax credit, annual reporting procedure establish the framework for administration of the Idaho Reimbursement Incentive Act, Sections 67-4737 through 67-4744, Idaho Code, including application, agreement, and compliance requirements.
~~(3-31-22)~~( )

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
~~The award of a credit under the Tax Reimbursement Incentive Act is made at the recommendation of the Director of the Department of Commerce and approval of the Economic Advisory Council (Council). In light of the negotiated nature of awarding the Tax Reimbursement Incentive (TRI), there is no administrative appeal under these rules. Nothing in this section prohibits an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code~~Decisions under this chapter are subject to judicial review as provided in Idaho Code § 67-4739(2).
~~(3-31-22)~~( )

004. -- 099. (RESERVED)

100. DEFINITIONS AND ABBREVIATIONS.
The following definitions apply: (3-31-22)

01. Incentive Agreement. A reimbursement contract between the Department and the business entity which details any instruction provided by the Council in addition to the requirements detailed in Chapter 47, Title 67, Section 4740, Idaho Code. Also referred to as an Agreement. (3-31-22)

02. Pre-Application. A form, paper or electronic, that is completed by the business entity or on behalf of the business entity by an authorized economic development or local government representative when details about the Meaningful Project are not fully known. A pre-application necessitates that an application is completed by the business entity or its authorized representative at a later time, and prior to award of a tax credit. (3-31-22)

03. Tax Reimbursement Incentive Act (TRI). A performance based tax reimbursement mechanism available to existing Idaho businesses and new businesses creating jobs in Idaho. Also known as the Idaho Reimbursement Incentive Act. (3-31-22)

04. Terms. Terms defined in Section 67-4738, Idaho Code, have the meanings provided in that section.
( )

101. -- 129. (RESERVED)

130. PROGRAM INTENT.
~~The TRI is designed to accelerate the growth of new business opportunities, encourage the creation of high-paying jobs, and diversify the state's economy. The Tax Reimbursement Incentive is a performance-based economic development tool that provides a refundable tax credit up to thirty percent (30%) for up to fifteen (15) years on new business entity income tax, sales tax, and payroll taxes paid as a result of meaningful project. The TRI will~~

~~perpetually generate the revenues needed to fund the incentive~~The purpose and legislative intent of the Idaho Reimbursement Incentive Act are established in Section 67-4737, Idaho Code. ~~(3-31-22)~~( )

01. Available Credit. This credit is available to both existing and new companies seeking expansion in the state. The tax credit percentage and project term are negotiated based upon the quantity and quality of jobs created, state/regional economic impact and return on investment for Idaho, among others. The credit authorized must be the lowest approved percentage and term that will incentivize creation of new jobs and New State Revenue. (3-31-22)

02. Evaluation and Recommendation. Incentives will be evaluated and recommended to the Council by the Director, with final approval by the Council. The TRI will be governed by detailed incentive agreements between the Department and business entity. (3-31-22)

131. -- 149. (RESERVED)

150. ELIGIBILITY.
Eligibility for the tax reimbursement incentive is determined pursuant to Sections 67-4738 and 67-4739, Idaho Code and the terms established in the incentive agreement. ( )

~~**01. Eligible Recipients**. Recipients of the TRI are limited to existing business entities located in Idaho seeking to expand their companies within the state of Idaho, and business entities, new to Idaho, seeking to relocate to, or expand in, the state of Idaho.~~ ~~(3-31-22)~~

~~**02. Eligible Projects**. An eligible project is an expansion of an existing business located in Idaho or the creation of new business operations in Idaho that generate the minimum required new jobs based on rural or urban location.~~ ~~(3-31-22)~~

151. JOB CREATION CRITERIA.
Job creation, wage, and other qualifying requirements are governed by Sections 67-4738 and 67-4739, Idaho Code. ( )

~~**01. Rural Community**. The minimum new jobs required for a rural community is not less than twenty (20) over the term of the project.~~ ~~(3-31-22)~~

~~**02. Urban Community**. The minimum new jobs required for an urban community is not less than fifty (50) over the term of the project.~~ ~~(3-31-22)~~

~~**03. New Jobs**. New jobs must exceed the business entities' maximum number of full-times jobs in Idaho during the twelve (12) months immediately preceding the date of the application.~~ ~~(3-31-22)~~

~~**04. Job Shift**. A job that shifts from one (1) location within the state of Idaho to another location within the state of Idaho is not considered a new job.~~ ~~(3-31-22)~~

~~**05. New Jobs Wages**. New jobs wages must equal or exceed the average annual county wage in the county where the jobs are located. The Department will annually publish the average county wage based on the most recent, non-preliminary information, obtained from the Idaho Department of Labor.~~ ~~(3-31-22)~~

152. APPLICATION PROCESS.
Applications for the tax reimbursement incentive must satisfy the requirements of Section 67-4739, Idaho Code. The Department may prescribe the form and procedures necessary to administer the application and review process consistent with that section. ( )

~~**01. Inquiry**. The business entity, or its authorized representative, may engage an authorized representative from the Department to complete an initial screening process. The screening process will assist the business entity in determining to proceed with a pre-application or application. Information necessary during screening includes general details about the Project, the number of full-time jobs, the number of new jobs, the minimum new jobs, the rural or urban area under consideration, the industry, the community contribution, as well as~~

~~any other information requested to determine eligibility. The business entity, in consultation with the Department's representative, makes a determination to proceed with a pre-application or a full application depending on the project timeline, known project details or other factors associated with the project.~~ ~~(3-31-22)~~

02~~1~~1. **~~Pre-Application~~Required Information**. ~~After the business entity's determination to proceed with a pre-application, the business entity, or its authorized representative, will be provided with a pre-application. A pre-application may be completed by the business entity or an authorized representative of the business entity, such as an economic development or local government representative. A pre-application must detail the following:~~ Applications must include sufficient information for the Department to evaluate eligibility, economic impact, job creation, and anticipated tax revenues. ~~(3-31-22)~~( )

~~**a.** A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (3-31-22)~~

~~**b.** A statement of dependency explaining whether the project will occur or how it will be altered if the application is denied by the council; (3-31-22)~~

~~**c.** A letter from the city or county, or both, expressing a commitment to supply community contribution; (3-31-22)~~

~~**d.** Detailed description of the proposed capital investment; (3-31-22)~~

~~**e.** Detailed description of jobs to be created, an approximation of the number of such jobs to be created and the projected wages to be paid for such jobs; and (3-31-22)~~

~~**f.** Detailed description of the estimated new state tax revenues by tax to be generated by the project. (3-31-22)~~

03~~2~~. **~~Pre-Application Estimate Letter~~Review Process.** ~~Upon review and acceptance of a pre-application, the Director may issue an estimate letter to the business entity or its authorized representative, or both, which describes the estimated amount of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. This letter is not a binding commitment but an estimate based on the initial information supplied in the pre-application~~ The Department will review applications and may submit recommendations to the Economic Advisory Council for approval. ~~(3-31-22)~~( )

~~**04. Application**. After the business entity's determination to proceed with an application, the business entity will be given access to the application, which must include, but not be limited to, the following information: (3-31-22)~~

~~**a.** A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (3-31-22)~~

~~**b.** An affidavit of criticality explaining that without the TRI incentive, the business entity would be forced to alter its project or not choose Idaho; (3-31-22)~~

~~**c.** A letter from the city or county, or both, describing their commitment to supply community contribution, a specific description of the contribution, and the amount of the contribution; (3-31-22)~~

~~**d.** Business entities currently doing business in Idaho will supply a letter from the Idaho State Tax commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission; (3-31-22)~~

~~**e.** An estimate of Idaho goods and services to be consumed or purchased by the business entity during the term; (3-31-22)~~

~~**f.** Known or expected detriments to the environment or existing industries in the state; (3-31-22)~~

~~g. An anticipated project inception date and proposed schedule of progress; (3-31-22)~~

~~h. Any proposed performance requirements and measurements that must be met prior to issuance of the tax credit; (3-31-22)~~

~~i. A description of any proposed capital investment; (3-31-22)~~

~~j. A detailed schedule and description of the projected jobs to be created, the projected wages to be paid for those jobs, and the anticipated hiring schedule for those jobs; and (3-31-22)~~

~~k. The estimated new state tax revenues to be generated by the project. (3-31-22)~~

~~05. Application Recommendation Letter. Upon review of an application, the Director may issue a letter that details the Director's anticipated recommendation to the Council. The letter may include the percentage of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. All application recommendation letters must contain a "subject to Economic Advisory Council approval" contingency clause. (3-31-22)~~

~~06. Technical Review - Pre-Application. The Director and Department staff will complete a technical review of each pre-application. Upon satisfaction that all pre-application requirements are met, the Director may issue an estimate letter. (3-31-22)~~

~~07. Technical Review – Application. The Director of the Department and Department staff will complete a technical review and economic impact analysis of each application. The technical review will consider many economic factors and external information sources such as, but not limited to, the region, industry, financial health and history of the business entity, as well as the quality, quantity and economic impact of new jobs and new state revenue. Upon satisfaction that all application requirements are met, the Director may submit a recommendation for award to the Council. (3-31-22)~~

0~~8~~3. **Economic Advisory Council**. ~~The Council reviews the application and the Director recommendations. Following review the council has the following three (3) options:~~ The Council may approve, deny, or request additional information regarding an application. ~~(3-31-22)~~( )

~~a. Request additional information or action from the Director in order to obtain necessary information to approve or reject the application; or (3-31-22)~~

~~b. Approve the application and instruct the Director to enter into an incentive agreement with the business entity; or (3-31-22)~~

~~c. Reject the application. (3-31-22)~~

~~d. An approval or rejection from the council is not considered a contested case pursuant to Chapter 52, Title 67, Idaho Code, provided, however, that nothing in this section prohibits an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code. (3-31-22)~~

~~09. Pre-Application Schedule. The pre-application is open year round. Review of pre-applications are subject to the meeting schedule of Department staff. (3-31-22)~~

~~10~~04. **Application Schedule**. The application is open year round. Review of applications is subject to the meeting schedule of Department Staff and the Council. The Council will meet no less than quarterly and has the ability to meet more often at the request of the Director. (3-31-22)

153. -- 159. (RESERVED)

160. CONFLICT OF INTEREST.
~~Conflict of Interest is defined by Idaho's Office of the Attorney General as any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private~~

~~pecuniary benefit of the person or member of the person's household, or a business with which the person or a member of the person's household is associated. In the event Department staff, including the Director has a conflict of interest regarding an application, the conflict must be fully disclosed to the Director and the Council, and that person must abstain from decision making or evaluation of the application. In the event a Council member has a conflict of interest regarding an application, the Council member must fully disclose such conflict to the Director and the Council, and that Council member must abstain from discussing or voting on the application~~Conflict-of-interest requirements applicable to consideration of an application are governed by Section 67-4739, Idaho Code. ~~(3-31-22)~~( )

161. -- 169. (RESERVED)

170. AGREEMENTS.

01. Incentive Agreement. At the direction of the Council, and in accordance with the criteria established by these rules, the Director enters into an incentive agreement with the business entity. (3-31-22)

02. Agreement ~~Terms Defined~~. ~~The incentive agreement contains any terms as approved by the Council, or deemed necessary by the state Deputy Attorney General, as well as defines the following:~~ Approved applicants shall enter into an incentive agreement with the Department outlining performance requirements, reporting obligations, and terms of the tax credit. The Department will enter into reimbursement incentive agreements in accordance with Section 67-4740, Idaho Code. ~~(3-31-22)~~( )

~~**a.** Maximum term that is not to exceed fifteen (15) years; (3-31-22)~~

~~**b.** Projected new state revenues to be generated during the term; (3-31-22)~~

~~**c.** Method and recordkeeping requirements to determine projected new state revenue to be generated; (3-31-22)~~

~~**d.** The approved tax credit percentage applied to new state revenue each year the business entity is entitled to receive the reimbursement during the term of the meaningful project; (3-31-22)~~

~~**e.** The projected new jobs; (3-31-22)~~

~~**f.** The terms and conditions of any and all performance requirements and measurements that must be met prior to the issuance of a tax credit authorization; (3-31-22)~~

~~**g.** The agreed upon and necessary proof of compliance required prior to tax credit issuance. Proof of compliance provided by the business entity must be adequate to demonstrate to the director that all requirements and measurements have been met for the business entity to receive the tax credit; (3-31-22)~~

~~**h.** The consequences of default by the business entity; (3-31-22)~~

~~**i.** The period to be used to determine the taxes paid at the date of application; (3-31-22)~~

~~**j.** Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. (3-31-22)~~

~~**k.** The federal employer identification or social security number for each individual or entity stated as the business entity in the incentive agreement; and (3-31-22)~~

~~**l.** Identification of the individual or entity that is or will be claiming the refundable credit. (3-31-22)~~

171. -- 179. (RESERVED)

180. TAX CREDIT AUTHORIZATION.

Tax credit authorization and reimbursement will be administered pursuant to Section 67-4741, Idaho Code, and the applicable reimbursement incentive agreement. ( )

~~**01. Claiming Tax Credit**. No business entity may claim a tax credit unless the business entity has a tax credit authorization issued by the Department. A business entity may claim a tax credit on its tax return, in the amount listed on the tax credit authorization for the year listed on the tax credit authorization. (3-31-22)~~

~~**02. Duplicate Copy**. The Department must provide a duplicate copy of any tax credit authorization to the Tax Commission. (3-31-22)~~

181. -- 189. (RESERVED)

190. ~~ANNUAL REPORTING BY APPLICANT~~COMPLIANCE, REPORTING, AND AUDIT.
~~Required Annual reporting must be outlined in the incentive agreement and will include, but not be limited to, the following: (3-31-22)~~

01. ~~New State Revenues~~Reporting. ~~Supporting documentation of the new state revenues from the business entity's new project that were paid during the preceding calendar year~~ The Department will complete the annual reporting required by Section 67-4742, Idaho Code. Recipients must submit reports as required by the Department to demonstrate compliance with the incentive agreement. ~~(3-31-22)~~( )

02. ~~New Jobs Created~~Audit. Audit and verification activities will be conducted as authorized by Sections 67-4741 and 67-4742, Idaho Code. Supporting documentation of the new jobs that were created during the preceding tax year and the corresponding payroll information associated with the new jobs. ~~(3-31-22)~~( )

03. Known or Expected Detriments. Known or expected detriments to the environment or existing industries in the state. (3-31-22)

04. ~~Authorization Document~~Continuation and Termination. ~~A document that expressly directs and authorizes the Tax Commission and Department of Labor to allow the Department access to the business entity's returns, filings and other information that may be necessary to verify or otherwise confirm the declared new state revenues, the new jobs and the associated payroll information~~ Continuation of an applicant's tax credit is subject to the performance, reporting, and verification requirements of Sections 67-4740 and 67-4741, Idaho Code, and the applicable reimbursement incentive agreement. Suspension of the issuance of new agreements is governed by Section 67-4743, Idaho Code. ~~(3-31-22)~~( )

~~**05. Tax Commission Letter**. A letter from the Idaho State Tax Commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission. (3-31-22)~~

~~**06. Other Entitle to Rebate**. Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. (3-31-22)~~

~~**07. Supporting Documentation**. Supporting documentation that the business entity has satisfied the measurements and requirements outlined in the incentive agreement. (3-31-22)~~

~~**191. ANNUAL REPORTING BY DEPARTMENT.**~~
~~The Department must create an annual written report for the Governor and the Legislature describing the following: (3-31-22)~~

~~**01. Successes**. The Department's success under this act in attracting new jobs; (3-31-22)~~

~~**02. Estimated Tax Credit Commitments**. The estimated amount of tax credit commitments made by the Department and the period of time over which tax credits will be paid; (3-31-22)~~

~~**03. Economic Impact to State**. The economic impact to the state related to generating new state~~

~~revenue and providing tax credits under this act;~~ ~~(3-31-22)~~

~~**04. Estimated Costs and Benefits**. The estimated costs and economic benefits of the tax credit commitments that the Department made; and~~ ~~(3-31-22)~~

~~**05. Actual Costs and Benefits**. The actual costs and economic benefits of the tax credit commitments the Department made.~~ ~~(3-31-22)~~

~~**06. Submittal of Report**. The report must be submitted to the Office of the Governor and the appropriate legislative committee chairmen in a timely manner following the close of the state's fiscal year.~~ ~~(3-31-22)~~

~~**192. -- 199. (RESERVED)**~~

~~**200. AUDIT.**~~
~~The Department must arrange for an independent third-party audit annually pursuant to Chapter 47, Title 67, Idaho Code. The Department must consider any audit recommendations provided during the audit and implement changes as necessary as a result of those recommendations.~~ ~~(3-31-22)~~

~~**201. -- 209. (RESERVED)**~~

~~**210. CONTINUATION OF TAX CREDIT.**~~
~~The Department will review the business entity's annual report. Provided the business entity provides a reasonable justification for authorizing or continuing a tax credit, the Department determines the amount of the tax credit to be granted, issue a tax credit authorization to the business entity, and provide a duplicate copy of the tax credit authorization to the Tax Commission. The amount of the tax credit to be continued must be in accordance with the credit percentages specified in the incentive agreement. The TRI will not be extended beyond the term and length specified in the incentive agreement.~~ ~~(3-31-22)~~

~~**211. TERMINATION OR SUSPENSION OF TAX CREDIT.**~~
~~During the term of the project for each business entity, the Department will review the business entity's annual report. If the information provided is inadequate or inaccurate to provide a reasonable justification for authorizing or continuing a tax credit, the Department may:~~ ~~(3-31-22)~~

~~**01. Denial of Tax Credit.** Deny the tax credit for that tax year; or~~ ~~(3-31-22)~~

~~**02. Termination of Agreement**. Terminate the incentive agreement for failure to meet the performance standards established in accordance with the terms outlined in the incentive agreement; or~~ ~~(3-31-22)~~

~~**03. Request for Additional Documentation**. Request the business entity to submit additional documentation.~~ ~~(3-31-22)~~

~~212~~191. -- 999. (RESERVED)

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-2602

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

GOVERNOR'S STATEMENT: An earlier effective date prior to legislative review is required in accordance with the provisions of Idaho Code Section 67-5226(2)(b) because it is necessary to comply with governing law.

EFFECTIVE DATE: The effective date of the temporary rule is September 10, 2026.

AUTHORITY: In compliance with Idaho Code Sections 67-5221(1) and 67-5226 notice is hereby given that this agency has adopted a temporary rule and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Idaho Code Sections 63-105(2) and 63-105A(14).

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

Tuesday, October 13, 2026 **1:00 PM (MT)**
In Person: **Coral Conference Room** **Idaho State Tax Commission** **11321 W. Chinden Blvd., Bldg. 2 Boise, ID 83714-1021** **Join from the meeting link** **https://idahogov.webex.com/idahogov/j.php?MTID=m242e8872f2f6488b6bee5f2095f99977** **Meeting number: 2630 389 6781** **Meeting password: 5MBqgXHXf28** **Join by phone:** **+1-415-655-0001 US Toll** **Meeting number: 2630 389 6781**

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

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

The temporary and proposed rule are meant to: 1. Identify the retail customer because the electricity sold to the company is for consumptive use. 2. Prevents non-typical rates or contractual arrangements from altering the classification as a retail sale. 3. Prevents the quantity of reported kilowatt hour sales from being reduced or netted against other transactions between the parties.

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.

Pursuant to Idaho Code Section 67-5220(2) negotiated rulemaking was not conducted because a temporary rule has been issued and will be promulgated in a public meeting on October 13, 2026.

INCORPORATION BY REFERENCE: Pursuant to Idaho Code Section 67-5229(2)(a) 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 Garin Evans at garin.evans@tax.idaho.gov or (208) 332-6624.

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 28, 2026.

DATED this 2nd day of September, 2026.

Philip Johnson, Tax Research Specialist/Rules Officer
Idaho State Tax Commission
11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36. Boise ID 83722-0036
philip.Johnson@tax.idaho.gov
(208) 334-7505

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT OF DOCKET NO. 35-0103-2602
(Only Those Sections With Amendments Are Shown.)

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

418. ~~– 508.~~ (RESERVED)

419. DEFINING RETAIL CUSTOMER – KILOWATT HOURS AND THERMS TAX.
Section 63-3502B, Idaho Code

01. Retail Customer Defined. A retail customer is a customer in Idaho to whom a rate-regulated electric utility company sells kilowatt-hours, or to whom a rate-regulated affiliated gas company or rate-regulated gas company sells therms, for the retail customer's consumptive use and not for resale. (9-10-26)T

02. Classification of Retail Sales. The classification of a sale as retail is not altered by the rate or rate schedule charged or the existence of another transaction or arrangement between the selling company and the retail customer or any other person or entity. (9-10-26)T

03. Determination of Kilowatt Hours or Therms Sold. Kilowatt-hours or therms sold to a retail customer are determined without reduction, offset, or credit for any other transaction or arrangement between the selling company and the retail customer or any other person or entity. (9-10-26)T

420. -- 508. (RESERVED)

IDAPA 35 – STATE TAX COMMISSION

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-2601

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:

Tuesday, October 13, 2026
11:00 AM (MT)

In Person:
Coral Conference Room
Idaho State Tax Commission
11321 W. Chinden Blvd., Bldg. 2 Boise, ID 83714-1021

Join from the meeting link
https://idahogov.webex.com/idahogov/j.php?MTID=m104c2ade49de7290dd282685236eca48
Meeting number: 2861 919 3367
Meeting password: tTZEhyt8J45

Join by phone:
+1-415-655-0001 US Toll
Meeting number: 2861 919 3367

The hearing site(s) will be accessible to people 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 eight (8) year rulemaking, as per Idaho Code Section 67-5292, the Commission is reviewing IDAPA 35.02.01 to assess whether the content of the rule chapter is still necessary. As part of the rulemaking, the Commission plans to remove redundant and unnecessary language and streamline the rules.

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 July 1, 2026, Bulletin 35-0201-2601, Idaho Administrative Bulletin, Vol. 26-7, page 91 and August 5, 2026, Bulletin 35-0201-2601, Idaho Administrative Bulletin, Vol. 26-8, page 79.

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 28, 2026.

DATED this 29th day of May, 2026.

Philip Johnson, Tax Research Specialist/Rules Officer
Idaho State Tax Commission
11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36. Boise ID 83722-0036
philip.Johnson@tax.idaho.gov
(208) 334-7505

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0201-2601
(Only Those Sections With Amendments Are Shown.)

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

000. LEGAL AUTHORITY.
Section 63-3039, Idaho Code

~~**01. In General.** In accordance with Sections 63-105 and 63-3039, Idaho Code, the Tax Commission has authority to promulgate rules implementing the provisions of the Idaho Income Tax Act.~~ ~~(3-15-22)~~

0~~2~~1. **Related Taxes**. This chapter contains ~~rules~~ sections relating to provisions of the Idaho Income Tax Act, Title 63, Chapter 30, Idaho Code, that are incorporated by reference into statutes relating to other taxes. These include: ~~(3-15-22)~~( )

a. Sales and Use Taxes, Title 63, Chapter 36, Idaho Code; (3-15-22)

i. Auditorium Districts, Title 49, Chapter 49, Idaho Code. ( )

ii. Idaho Travel and Convention Industry Council, Title 67, Chapter 47, Idaho Code. ( )

b. ~~Motor~~ Fuels Taxes, Title 63, Chapter 24, Idaho Code; ~~(3-15-22)~~( )

c. Petroleum ~~Transfer Fee~~ Clean Water Trust Fund, Title 41, Chapter 49, Idaho Code;~~(3-15-22)~~( )

d. Cigarette and Tobacco Products Taxes, Title 63, Chapter 25, Idaho Code; (3-15-22)

e. Beer ~~Taxes~~, Title 23, Chapter 10, Idaho Code; ~~(3-15-22)~~( )

f. County Option Kitchen and Table Wine ~~Taxes~~ Act, Title 23, Chapter 13, Idaho Code; ~~(3-15-22)~~( )

g. License Tax for Privilege of ~~Mine License Taxes~~ Mining and Extracting Ores, Title 47, Chapter 12, Idaho Code; ~~(3-15-22)~~( )

h. ~~Kilowatt Hour Taxes~~License Tax on Electricity, Title 63, Chapter 27, Idaho Code; ~~(3-15-22)~~( )

i. Oil and Gas ~~Taxes~~ Wells, Title 47, Chapter 3, Idaho Code. ~~(3-15-22)~~( )

001. SCOPE.
Section~~s~~ 63-3039, 63-3072, Idaho Code

01. Effective Date. To the extent allowed by statute, rules in this chapter are applied on their effective date to all taxable years open for determining tax liability. (3-15-22)

02. Closed Years or Issues. Taxable years closed by the statute of limitations remain closed and are not reopened by the ~~promulgation~~ formal declaration, repeal, or amendment of any rule. Issues resolved by the expiration of appeal time, a notice of deficiency determination, or a final decision of the Tax Commission will not be reopened by the ~~promulgation~~ formal declaration, repeal, or amendment of any rule. ~~(3-15-22)~~( )

03. Transactions Before an Effective Date. A rule will not be applied to transactions occurring before its effective date in a case where, in the opinion of the Tax Commission, to do so would create an obvious injustice. (3-15-22)

~~**002. ADMINISTRATIVE APPEALS.**~~
~~This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code.~~ ~~(3-15-22)~~

00~~3~~2. – 009. (RESERVED)

010. DEFINITIONS.
Section 63-3003, 67-5232, 67-9903, Idaho Code

01. Date of Filing or Payment. Materials not mailed with the United States Postal Service or a private delivery service designated as qualifying under Section 7502, Internal Revenue Code, are filed when physically received by the Tax Commission. (3-15-22)

02. Pay, Paid, Payable or Payment. When used in reference to an amount of tax, penalty, interest, fee or other amount of money due to the Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Tax Commission of lawful money of the United States. (3-15-22)

a. As used herein, lawful money of the United States means; (3-15-22)

i. Currency or coin of the United States at face value; and (3-15-22)

ii. Negotiable checks drawn on a United States bank or other financial institution that are payable in full in money of the United States. (3-15-22)

b. The words pay, paid, payable, or payment do not include: (3-15-22)

i. Submission to the Tax Commission of a check or draft that is subsequently dishonored by the institution on which it is drawn. (3-15-22)

ii. Submission to the Tax Commission of a check or draft drawn on a foreign bank or other financial

institution in regard to which any processing fees may be incurred by the state of Idaho. (3-15-22)

03. Declaratory Ruling. A declaratory is a final decision which interprets or applies a statute or rule administered by the agency. A declaratory ruling can state whether or in what manner an order issued by the agency applies to the petitioner. ( )

011. – 109. (RESERVED)

110. DECLARATORY RULINGS.
Sections 67-5232, 67-5206, 67-5255, Idaho Code

01. ~~Findings Pursuant to Section 67-5206, Idaho Code~~Authority and Purpose. Authority and Purpose. This rule is adopted under Idaho Code sections 67-5232 and 67-5255 and governs declaratory rulings issued by the Tax Commission. It supplements the general administrative rules on declaratory rulings in Idaho Administrative Procedures Act 62.01.01, sections 725 through 749, by providing procedures specific to tax administration, including the protection of confidential taxpayer information. ~~(3-15-22)~~( )

~~**a.** The Tax Commission finds that the Attorney General's Administrative Rules on declaratory rulings found at IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 400 through 402 do not adequately address the needs of taxpayers seeking a declaratory ruling on applications of the tax law. The Attorney General's Administrative Rules do not:~~ ~~(3-15-22)~~

~~i. Protect taxpayer confidentiality;~~ ~~(3-15-22)~~

~~ii. Define the taxpayer's right to rely on the ruling; or~~ ~~(3-15-22)~~

~~iii. Identify the circumstances justifying the denial or withdrawal of a ruling.~~ ~~(3-15-22)~~

~~**b.** Accordingly, this rule will govern declaratory rulings issued by the Tax Commission.~~ ~~(3-15-22)~~

02. Filing a Petition. Any person or group may file a written petition with the Tax Commission requesting a determination of how a statute, rule, or order applies to them. A petition is eligible for consideration when the petitioner's tax liability is directly affected or the petitioner has a direct financial interest in the issue, the petition is submitted in writing, and the petition includes a statement that it is intended as a petition for a declaratory ruling under this section or the Administrative Procedure Act. ~~(3-15-22)~~( )

~~**a.** Any person, group, or other association may file a written petition with the Tax Commission asking for an interpretation or determination as to the applicability of a statute, rule, or order issued by the Tax Commission to the party filing the petition. To obtain the determination the petitioner's tax liability must be directly affected by the determination or the petitioner must demonstrate a direct financial interest in the determination sought.~~ ~~(3-15-22)~~

~~**b.** A petition must be submitted to the Tax Commission in writing and contain an express statement that it is intended to be a petition for a declaratory ruling pursuant to this rule or the Administrative Procedure Act.~~ ~~(3-15-22)~~

03. Tax Commission's Response to Petition. After receiving a petition, the Tax Commission ~~shall~~ can: ~~(3-15-22)~~( )

a. Issue a written declaratory ruling; (3-15-22)

b. Require the petitioner to submit additional facts, evidence, or information as the Tax Commission deems necessary to make a declaratory ruling; or (3-15-22)

c. Decline to make a declaratory ruling. ~~The Tax Commission shall decline to make a declaratory ruling~~ in the following circumstances: ~~(3-15-22)~~( )

i. The identity of the taxpayer is not disclosed; (3-15-22)

ii. The request fails to include sufficient facts, evidence, or other information on which a declaratory ruling may be based; (3-15-22)

iii. The issue on which a declaratory ruling is sought is the subject of pending litigation or administrative appeal; (3-15-22)

iv. The petitioner is not a person directly affected by a resolution of the issue presented; or (3-15-22)

v. It appears there are other good or compelling reasons why a declaratory ruling should not be made. (3-15-22)

04. Factual Circumstances. A declaratory ruling applies only to the factual circumstances as submitted by the petitioner and applies only to the petitioner seeking the declaratory ruling. The declaratory ruling may not be relied on by a person not named as a petitioner. The declaratory ruling is void if the facts changed significantly, all relevant facts were not disclosed at the time of the petition, or the facts were not accurately represented to the Tax Commission. If the statutory provisions or administrative rules affecting the declaratory ruling are amended by the legislature or the Tax Commission, the declaratory ruling is void as of the date of the amendment to the statute or rule. (3-15-22)

05. Withdrawal of Ruling. If after issuing a declaratory ruling the Tax Commission believes the declaratory ruling is erroneous, it may withdraw the declaratory ruling by giving written notice to the petitioner at his last known address. If the petitioner has relied on the declaratory ruling in good faith, the Tax Commission may not assess any tax liability accruing between the dates the declaratory ruling was issued and its withdrawal. (3-15-22)

06. Confidentiality. Declaratory rulings by the Tax Commission are information subject to the confidentiality requirements of Sections 63-3076 and 63-3077, Idaho Code and Rule 700 of these rules. Factual, financial, or other information relating to a taxpayer is not public record and may not be disclosed to any person except as provided by Sections 63-3076 and 63-3077, Idaho Code, or as authorized by the taxpayer. (3-15-22)

07. Appeals. Sections 67-5270 through 67-5279, Idaho Code, govern the judicial review of declaratory rulings. (3-15-22)

111. – 130. (RESERVED)

131. UNACCEPTABLE PAYMENTS.
Section 63-3034, Idaho Code

01. Checks and Drafts Previously Dishonored. Nothing herein shall limit the authority of the Tax Commission to refuse to accept a check drawn on the account of a taxpayer who has previously tendered a check dishonored by the institution on which it was drawn. (3-15-22)

02. Checks and Drafts From Foreign Institutions. The Tax Commission may reject a check or draft drawn on a foreign bank or other foreign financial institution. (3-15-22)

03. Checks and Drafts That Result in Processing Fees. The Tax Commission may reject a check or draft that, if accepted, may result in the state of Idaho incurring a processing fee. (3-15-22)

04. Tender of Gold or Silver Coin or Specie. Notwithstanding Idaho Code Section 67-9903, the Tax Commission does not accept gold or silver coin or specie as payment for any purpose. ( )

05. Tax Commission's Discretion. The Tax Commission may reject any form of payment that imposes undue burden on the Tax Commission to collect, process, or administer such payment, in the Tax Commission's discretion. ( )

(BREAK IN CONTINUITY OF SECTIONS)

150. REQUIREMENTS OF ~~A~~ VALID TAX RETURN~~S~~.
Section~~s~~ 23-1047, 23-1051, 63-2421, 63-2439, 63-2510, 63-3623, 63-3076(5), Idaho Code

01. In General. ~~All tax returns filed with the Tax Commission shall be complete and include attached copies of all pertinent schedules or computations~~ A tax return filed with the Tax Commission is complete when it includes all mandatory information, schedules, and calculations. ~~(3-15-22)~~( )

02. Supporting ~~Computations and Schedules~~ Documentation. ~~The results of supporting computations shall be carried forward to applicable lines on the tax forms. A statement referencing an attached schedule is not acceptable if the taxpayer does not enter the necessary information from the attachments on the tax form. For purposes of this subsection, a return shall be deemed valid if the Tax Commission does not reject the return by mailing it back to the taxpayer~~ Information from supporting schedules and calculations has to be entered on the appropriate lines of the tax form. Referring to an attached schedule without entering the information on the form is not sufficient. A return is considered valid unless the Tax Commission rejects it and notifies the taxpayer. ~~(3-15-22)~~( )

03. Information to Compute Tax. A return that does not provide sufficient financial information to compute a tax liability is not a valid tax return. (3-15-22)

04. ~~Accuracy and Required~~ Necessary Information. ~~A return need not be totally accurate to be a valid return. However, for the~~ A valid return ~~to be valid it must~~ includes all the following: ~~(3-15-22)~~( )

a. Be identified as a return; (3-15-22)

b. Be filed using the proper form prescribed by the Tax Commission; (3-15-22)

c. ~~Include t~~The taxpayer's social security number, federal employer identification number, or Internal Revenue Service processing number; ~~(3-15-22)~~( )

d. ~~Include t~~The taxpayer's name and address; ~~(3-15-22)~~( )

e. ~~Include t~~The taxpayer's Idaho permit or license number, if applicable; ~~(3-15-22)~~( )

f. ~~Identify t~~The reporting or tax period; ~~(3-15-22)~~( )

g. ~~Contain a c~~Computation of the tax liability and sufficient supporting information to show how the taxpayer reached that result; and ~~(3-15-22)~~( )

h. ~~Reflect t~~The taxpayer's honest and genuine effort to satisfy the requirements of the law. For purposes of determining if these requirements are met, documents that contain the following are clearly insufficient: ~~(3-15-22)~~( )

i. Broad unspecified constitutional claims; (3-15-22)

ii. Unsupported statements that claim no Idaho activity or income exists; and (3-15-22)

iii. Language that demonstrates a protest against the tax law or its administration. (3-15-22)

05. Signing of Returns. ~~Paper Returns.~~ The taxpayer or ~~an~~ authorized officer or representative ~~shall manually~~ sign~~s~~ the tax return. Both spouses ~~shall~~ sign a joint return. If a taxpayer is deceased or cannot sign ~~his~~ their name, a duly authorized person, such as a surviving spouse, executor, administrator or person holding power of attorney may sign the return, indicating ~~his~~ the status or relationship. If a taxpayer signs with an X, a witness ~~shall~~ attest~~s~~ this mark. The signature of the taxpayer constitutes a ~~written~~ declaration of the return's accuracy. ~~(3-15-22)~~( )

06. Reproduced and Substitute Forms. ~~Any reproduced or substitute form or schedule must meet the~~

~~requirements of the Tax Commission's original form~~ The Tax Commission may accept or reject reproduced or substitute forms and schedules at its discretion. Not all forms can be reproduced or substituted. If permitted, reproduced or substitute forms are considered when they include all material information from the original form or schedule and are clear and readable. ~~(3-15-22)~~( )

a. ~~Specific instructions for substitute forms are available on request from the Tax Commission. The use of substitute forms requires prior approval of the Tax Commission. The Tax Commission may reject nonapproved forms~~In cases where substitute forms are permitted by the Tax Commission, instructions for substitute forms are available from the Tax Commission upon request. All substitute forms are subject to prior approval. Forms that are not approved may be rejected. ~~(3-15-22)~~( )

b. In cases where ~~R~~reproduced forms and photocopies ~~of official~~ are permitted by the Tax Commission, ~~forms~~ such reproductions are acceptable ~~if~~ when the paper size and weight ~~and size of the paper~~ are ~~comparable~~ similar to ~~that used in~~ the official forms~~. These~~ and the forms ~~and schedules must be sufficiently~~ are legible ~~so they may~~ enough to be reproduced. ~~(3-15-22)~~( )

c. Returns that cannot be reproduced include Fuels, Fuels (use tax), Cigarette and Tobacco, and Beer and Wine. ( )

151. – 152. (RESERVED)

153. TAX PREPARERS -- ALTERNATIVE METHODS OF SIGNING INCOME TAX RETURNS.
Section 48-603B, Idaho Code

01. Tax Preparer. A tax preparer, ~~as defined in Section 48-603B, Idaho Code,~~ may sign an Idaho income tax return ~~in a manner~~ using a method allowed by Internal Revenue Service Notice 2004-54~~. The requirements for using the alternative methods under Internal Revenue Service Notice 2004-54 must be followed for Idaho income tax purposes if this method of signing a return~~ if the requirements in that notice are followed. is used for the Idaho return. Use of the alternative signature for the tax preparer does not alter the requirement for the taxpayer or authorized officer or representative to sign the return as provided in ~~Rule~~ Section 150 of these rules or to follow the requirements of Section 48-603B, Idaho Code. Section 63-3002, Idaho Code (IRS Notice 2004-54) ~~(3-15-22)~~( )

154. (RESERVED)

155. TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY.
Sections 63-115, 63-3039, 74-107, Idaho Code

01. Acknowledgment of Data Transmissions. ~~Persons filing returns by electronic data stream may be sent an acknowledgment of receipt of a successfully transmitted return. An acknowledgment means only that the Tax Commission received the return. An acknowledgment is not a finding by the Tax Commission about the correctness of the return. If any transmission is received in an unintelligible, unreadable, or corrupted form and the Tax Commission cannot identify the taxpayer, no acknowledgment will be sent~~ By filing a return electronically, the taxpayer and any third-party transmitting information on the taxpayer's behalf accept the risks of transmitting information electronically. The Tax Commission is not responsible for any loss, liability, damage, personal injury, or expense resulting from the transmission of the taxpayer's information. ~~(3-15-22)~~( )

02. Methods Allowed for Filing Motor Fuels Tax Returns Electronically. The following methods are acceptable methods for filing motor fuels tax returns electronically. (3-15-22)

a. Secured methods. Encrypted e-mail secured through public or private key encrypting. (3-15-22)

b. Unsecured methods. Non-encrypted e-mail. (3-15-22)

03. Risks of Disclosure. By filing a return electronically, the taxpayer agrees to the risks of disclosure in submitting information electronically. A taxpayer or third party may not hold the Tax Commission responsible for any loss, liability, damage, whether direct, indirect or consequential, personal injury, or expenses of any nature

whatsoever that may be suffered by the taxpayer or any third party as a result of or which may be attributable, directly or indirectly, from transmitting the taxpayer's information to the Tax Commission. (3-15-22)

156. – 199. (RESERVED)

200. EXAMINATION OF RECORDS: RECORDKEEPING AND PRODUCTION REQUIREMENTS.
Sections 63-3042, 63-3043, Idaho Code
A taxpayer shall maintain all records that are necessary to ~~a determination~~ determine of the correct tax liability. Required records must be made available on request by the Tax Commission or its authorized representatives.
~~(3-15-22)~~( )

201. EXAMINATION OF RECORDS: RECORDKEEPING AND PRODUCTION REQUIREMENTS.
Sections 63-3042, 63-3043, Idaho Code

01. Cost Reimbursement for a Third Party. If the Tax Commission summonses a third-party to produce records, the Tax Commission may reimburse the third-party at a rate not to exceed seventy-five cents ($0.75) per page. The Tax Commission may require the originals to be produced pursuant to the summons. ( )

20~~1~~2. – 299. (RESERVED)

300. ASSESSMENT OF TAX.
Sections 63-3045, 63-3045A, 63-3057, 63-3065, 63-3630, 63-4208, Idaho Code

01. The Record of Assessment. The record of assessment ~~shall be~~ is the Notice and Demand for payment of taxes that also functions as the ~~required~~ notice for ~~the distraint~~ sizing and ~~sale~~ selling of a taxpayer's personal property pursuant to Section 63-3057, Idaho Code. For a jeopardy assessment as provided for in Sections 63-3065, 63-3630, and 63-4208, Idaho Code, the Notice of Jeopardy Assessment is the record of assessment. In cases where the tax is self-assessed and no Notice and Demand is issued, ~~the record of assessment shall be~~ the Tax Commission's processing record of the filing ~~of the self assessed return~~ serves as the record of assessment.
~~(3-15-22)~~( )

02. Admission to Understatement of Tax. A taxpayer may admit to an understatement of tax at any time. An admission is not considered a compromise of tax, and does not affect the statutory period of limitations for an audit or additional assessment or for a claim for refund filed by the taxpayer. (3-15-22)

301. – 309. (RESERVED)

310. INTEREST RATES.
Sections 63-3045, 63-3073, Idaho Code
The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year ~~is determined in accordance with Section 63-3045, Idaho Code. The rates~~ are listed at https://tax.idaho.gov/interest. ~~These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code.~~
~~(3-15-22)~~( )

311. – 319. (RESERVED)

320. NOTICE OF DEFICIENCY: FILING A PROTEST.
Sections 63-3045, 63-3045B, Idaho Code

01. Perfected Protest. The protest ~~must~~ contains ~~the~~ information in Paragraphs a. through d. of this ~~rule~~ Subsection to be perfected. A protest meets the requirements of Paragraphs c. and d. of this ~~rule~~ Subsection if the allegations of fact or contentions of law, viewed in the light most favorable to the taxpayer, raise factual or legal issues that, if correct, would entitle the taxpayer to relief.
~~(3-15-22)~~( )

a. Name, address and pertinent identification number; (3-15-22)

b. The period to which the deficiency relates; (3-15-22)

c. The specific item or items in the Notice of Deficiency to which the taxpayer objects; and (3-15-22)

d. The factual or legal basis for the objections made. (3-15-22)

321. – 324. (RESERVED)

325. NOTICE OF DEFICIENCY: PROTEST PROCEDURES.
Sections 63-3045, 63-3045B, 63-3068(f), Idaho Code

01. Hearings. The taxpayer may be accompanied by more than one person~~,~~; however, the Tax Commission may limit the number of people accompanying the taxpayer. If a protestant ~~fails to~~ doesn't comply with a summons or subpoena or ~~fails to~~ doesn't appear for the informal conference, the Tax Commission may issue a decision without further hearing. ~~(3-15-22)~~( )

02. Request for a Final Decision. A request for a final decision ~~must~~ is to be in a letter addressed to the employee or agent of the Tax Commission from whom the acknowledgment of the protest was received or to the individual subsequently assigned to resolve the protest. The request ~~must be~~ is the sole subject of the letter and must clearly identify the taxpayer and the Notice of Deficiency. ~~(3-15-22)~~( )

03. Simultaneous Request for a Final Decision and a Hearing. If the taxpayer makes a simultaneous request for both a final decision and a hearing, the Tax Commission ~~shall~~ treats this as a request for a hearing. The one hundred eighty (180) day period begins when the hearing concludes. ~~(3-15-22)~~( )

04. Issues. Redetermination of any tax or refund due is not limited to the specific issue or issues protested for the taxable year, unless limited by Section 63-3068(f), Idaho Code. (3-15-22)

05. Amended Return After Audit. An amended return will be accepted for a taxable year for which a protest is pending only in the following circumstances: (3-15-22)

a. The taxpayer demonstrates that the changes on the amended return are unrelated to issues examined in the audit; (3-15-22)

b. The changes are the result of federal audit adjustments; or (3-15-22)

c. The amended return is submitted as part of the procedure for resolving the protest. (3-15-22)

06. Failure to Schedule a Hearing. The Tax Commission ~~may~~ issues a decision after forty-two (42) days from the date the notification of right to request a hearing is ~~mailed~~ sent to the taxpayer; if ~~(3-15-22)~~( )

a. The taxpayer does not request a hearing; (3-15-22)

b. The taxpayer requests a hearing but does not schedule a date for the hearing; or (3-15-22)

c. A hearing is scheduled but later cancelled by the taxpayer and the taxpayer does not reschedule. (3-15-22)

326. – 327. (RESERVED)

328. OPPORTUNITY TO PARTICIPATE: NOTICE TO PETITIONER.
Section 63-4003, 63-3045, Idaho Code

01. Notification and Participation. If an appeals officer believes a discussion with staff from the originating division is warranted to review matters ~~restricted by Subsection 327.02 of these rules~~, an appeals officer ~~shall~~ provides the petitioner reasonable notice of the time and date of any discussion. Such notice may be provided to the petitioner by telephone, mail or electronic form ~~and pursuant to Section 63-4003, Idaho Code~~. An appeals officer shall make a reasonable effort to accommodate the petitioner's schedule but will not unduly delay the discussion. The

petitioner may participate by telephone or in-person at the State Tax Commission office in Boise, Idaho, and any discussion will be held during normal business hours. ~~(3-15-22)~~( )

02. Additional Petitioner Participation Information. Any discussion held under this rule that includes petitioner participation is not an informal hearing under ~~Rule~~ Section 325 of these rules and does not start the one hundred and eighty (180) day period for issuing a final decision. ~~(3-15-22)~~( )

329. – 399. (RESERVED)

400. PENALTIES: GENERAL RULES.
Sections 63-3033, 63-3046, Idaho Code

01. Penalty Presumed Appropriate. If a taxpayer becomes liable to pay the Internal Revenue Service a penalty similar to one provided in Section 63-3046, Idaho Code, ~~it shall be presumed the penalty is appropriate as part of the related state tax deficiency~~ the penalty is presumed appropriate as part of the related state tax deficiency. ~~(3-15-22)~~( )

02. Computation of Tax Due Amounts for Failure to File, Failure to Pay, Delinquent Filing, Substantial Understatement, and Extension Penalties. For purposes of computing the failure to file, failure to pay, substantial understatement, or delinquent filing penalties, provided by Section 63-3046, Idaho Code, and the penalty for failing to meet the extension criteria, provided by Section 63-3033, Idaho Code, the terms tax shown thereon to be due, tax ~~required~~ to be shown on the return, tax due on such return, and the amount on which the extension penalty is applied ~~shall~~ mean amounts computed as follows: ~~(3-15-22)~~( )

a. Include the income tax, the permanent building fund tax, tax from recapture of Idaho income tax credits, income tax credits, and any payments for these taxes for that year. (3-15-22)

b. Exclude items reported on the income tax return that are not included in Title 63, Chapter 30, Idaho Code, such as sales or use tax due, fuels tax due, and special fuels or gasoline tax refunds. (3-15-22)

03. Net Operating Loss and Capital Loss Carrybacks. If the tax due for the taxable year is reduced after the application of a net operating loss carryback or a capital loss carryback, the penalty shall be computed on the tax due prior to the application of the carryback. (3-15-22)

401. – 409. (RESERVED)

410. NEGLIGENCE PENALTIES.
Section 63-3046(a), Idaho Code

01. Negligence Defined. Negligence is the breach of a duty or obligation, recognized by law, that ~~requires~~ demands conformance to a certain standard of conduct. ~~(3-15-22)~~( )

02. Imposition of Penalty. A five percent (5%) negligence penalty ~~shall be~~ is imposed if the deficiency results from either negligence by the taxpayer or from disregard by the taxpayer or his agent of state or federal tax laws, rules of the Tax Commission, or Treasury Regulations. Situations that justify the penalty include but aren't limited to the following: ~~(3-15-22)~~( )

a. Taxpayer continues to make errors in reporting income, sales or assets, or claims erroneous deductions, exemptions, or credits even though these mistakes have been called to ~~his~~ their attention in previous audit reports. ~~(3-15-22)~~( )

b. Taxpayer fails to maintain proper records and files returns containing unsubstantiated claims or substantial errors. (3-15-22)

c. Taxpayer makes unsubstantiated or exaggerated claims of deductions or exemptions. (3-15-22)

d. Taxpayer fails to offer any explanation for understating taxes. (3-15-22)

e. Unreported taxable income is a material amount as compared with the reported income. (3-15-22)

f. Taxpayer exhibits a careless disregard of ~~his~~ their tax obligations. ~~(3-15-22)~~( )

g. For sales or use tax deficiencies, failure to keep valid files of resale and exemption certificates. (3-15-22)

h. Failure to make the ~~required~~ necessary estimated payment when requesting an extension of time for filing a return. ~~(3-15-22)~~( )

i. Taxpayer fails to provide the Tax Commission with a copy of a final federal determination according to Section 63-3069, Idaho Code. (4-6-23)

j. Taxpayer fails to file an Idaho amended return according to Section 63-3069, Idaho Code. (4-6-23)

k. Taxpayer fails to respond to requests to produce records substantiating items shown on the return. (3-15-22)

l. Taxpayer fails to make available the fifty-one (51) state apportionment factor detail when requested. (3-15-22)

03. Negligence Penalty for Sales and Use Tax Deficiencies. For sales tax purposes, pertinent computations relating to substantial errors in Subsection 410.02.b. or material amount in Subsection 410.02.e., might include the following: (3-15-22)

a. The ratio of untaxed sales that should have been taxed to total taxable sales; (3-15-22)

b. The ratio of untaxed sales that should have been taxed to total sales; (3-15-22)

c. The ratio of untaxed purchases subject to use tax to total taxable purchases and to total purchases; or (3-15-22)

d. Other computations bearing on negligence. (3-15-22)

04. Waiver of Negligence Penalty. The Tax Commission ~~shall~~ considers all factors when determining whether to waive a negligence penalty. One (1) factor is the taxpayer's record for filing and paying state taxes. A good record for filing and paying tax on returns filed annually is not by itself a sufficient reason to waive the penalty. ~~(3-15-22)~~( )

05. Circumstances Precluding Waiver of Penalty. The following circumstances do not constitute sufficient cause to waive the penalty: (3-15-22)

a. An invalid or unapproved request for an extension of time to file or to do acts ~~required~~ outlined by Idaho tax laws; ~~(3-15-22)~~( )

b. An unsettled dispute between the Tax Commission and the taxpayer concerning a tax liability; or (3-15-22)

c. Inability to pay the tax. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

430. PENALTY FOR FAILURE TO FILE, FAILURE TO PAY, OR DELINQUENT FILING.
Sections 63-3033, 63-3046, Idaho Code

01. In General. Due date means the date prescribed for filing without regard to extensions. (3-15-22)

02. Insufficient Postage. The proper amount of prepaid postage is ~~required~~ to be placed on returns ~~mailed~~ sent to the Tax Commission. If a tax return is returned to the sender due to insufficient postage, ~~it may result in~~ the return ~~becoming~~ becomes delinquent and subject to the delinquency penalty specified by Section 63-3046(c), Idaho Code. ~~(3-15-22)~~( )

03. Month Defined. If the due date falls on the last day of a calendar month, each succeeding calendar month, or fraction of it, during which the failure to file continues constitutes a month. If the due date is not the last day of the calendar month, the period that ends with the same date of the next month constitutes a month. If the succeeding month has no corresponding date, the last day of the month is ~~substituted~~ used. Any fraction of a month from the date ending the preceding monthly period to the date of payment constitutes a full month. ~~(3-15-22)~~( )

431. – 499. (RESERVED)

500. SETTLEMENTS.
Sections 63-3047, 63-3048, Idaho Code

01. Grounds for Settlement. The Tax Commission may settle any taxes, penalties, or interest of a case if one (1) or more of the following circumstances exist: (3-15-22)

a. Disputed liability, (3-15-22)

i. A disputed liability exists where there is a reasonable disagreement as to the existence or amount of the correct tax liability under the law. A disputed liability does not exist where the liability has been established by a final court judgment concerning the existence of the liability. (3-15-22)

ii. An offer to settle a disputed liability generally will be considered acceptable if it reasonably reflects the likelihood the Tax Commission could expect to collect through litigation. This analysis includes consideration of the hazards and costs of litigation that would be involved if the liability were litigated. The evaluation of the hazards and costs of litigation is not an exact science and is within the discretion of the Tax Commission. ~~(3-15-22)~~( )

b. Doubt as to ~~collectibility~~ collectability~~:~~. ~~(3-15-22)~~( )

i. Doubt as to ~~collectibility~~ collectability exists in any case where the taxpayer's assets and income ~~may not~~ are insufficient to satisfy the full amount of the liability. ~~(3-15-22)~~( )

ii. An offer to settle based on doubt as to ~~collectibility~~ collectability generally will be considered acceptable if it is unlikely that the tax, penalty, and interest can be collected in full and the offer reasonably reflects the amount the Tax Commission could collect through other means, including administrative and judicial collection remedies. This amount is the reasonable collection potential of a case. In determining the reasonable collection potential of a case, the Tax Commission will take into account the taxpayer's reasonable basic living expenses. In some cases, the Tax Commission may accept an offer of less than the total reasonable collection potential of a case if there are special circumstances. ~~(3-15-22)~~( )

c. Economic hardship of the taxpayer. (3-15-22)

i. The Tax Commission may settle where it determines that, although collection in full could be achieved, collection of the full amount would cause the taxpayer economic hardship. Economic hardship is defined as the inability to pay reasonable basic living expenses. ~~(3-15-22)~~( )

ii. An offer to settle based on economic hardship generally will be considered acceptable when, even though the tax, penalty, and interest could be collected in full, the amount offered reflects the amount the Tax Commission can collect without causing the taxpayer economic hardship. The determination to accept a particular amount will be based on the taxpayer's individual facts and circumstances. ~~(3-15-22)~~( )

d. Promotion of effective tax administration. (3-15-22)

i. The Tax Commission may settle to promote effective tax administration where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for settling the liability that is equitable under the particular facts and circumstances of the case. Settlements pursuant to this paragraph will be justified only where, due to exceptional circumstances, collection of the full liability may undermine public confidence that the tax laws are being administered in a fair and equitable manner. The taxpayer will be expected to demonstrate circumstances that justify settlement even though a similarly situated taxpayer may have paid his liability in full. ~~(3-15-22)~~( )

ii. The ~~State~~ Tax Commission may decline a settlement for reasons promoting effective tax administration if the settlement of the liability would undermine compliance by taxpayers with the tax laws. ~~(3-15-22)~~( )

02. Agreement Final. A settlement agreement relates to the issues agreed to for the tax periods in question. The agreement is final and conclusive and neither the Tax Commission nor the taxpayer ~~will be~~ is permitted to open the case again except in the case of changes to the federal return or a showing of fraud or malfeasance or misrepresentation of a material fact or as provided in the agreement. Recalculation of carryback or carryover items ~~may~~ cannot be construed as opening the case and will not affect the tax liability of a closed period or closed issue. ~~(3-15-22)~~( )

03. Form of Settlement. ~~The taxpayer must submit an offer to settle in writing. An offer may not be considered accepted until the taxpayer is notified in writing~~ An offer to settle will be considered only if submitted in writing by the taxpayer. Acceptance ~~may be~~ is made only by a Tax Commissioner or an authorized delegate. ~~If the offer is rejected, t~~ The Tax Commission will promptly notify the taxpayer if the offer is rejected. ~~(3-15-22)~~( )

04. Withdrawal of Offer. A taxpayer may withdraw ~~his~~ their offer to settle at any time prior to its acceptance by the Tax Commission. ~~(3-15-22)~~( )

501. PROCEDURES ON SETTLEMENTS OVER FIFTY THOUSAND DOLLARS ($50,000).
Section 63-3048, Idaho Code

01. Amount in Issue. The amount in issue is defined as the Notice of Deficiency amount, plus or minus any adjustments previously communicated in writing to the taxpayer, minus the proposed settlement amount. For purposes of the amount in issue, interest will be updated to the date of the offer. (3-15-22)

02. Written Summary. This summary does not preclude the Tax Commission from seeking a separate analysis from other agents of the Tax Commission. Such files may not be disclosed or inspected under the public records law. ~~(3-15-22)~~( )

03. Final Review When the Offer to Settle is Based on Inability to Pay. If the taxpayer's offer is based on inability to pay, a representative of the ~~Collection~~ Compliance Division will be provided with a copy of the Written Summary and given an opportunity to participate in the final review. The representative attending the final review on behalf of the ~~Collection~~ Compliance Division will be the division administrator or the designee. ~~(3-15-22)~~( )

502. – 699. (RESERVED)

700. DISCLOSURE OF INFORMATION: SCOPE.
Sections 63-3045B, 63-3076, 63-3077, Idaho Code

01. ~~Examples~~The Following Information Is Not Considered Disclosure. ~~The following are examples of information not considered return information for purposes of Rules 700 through 709 of these rules:~~ ~~(3-15-22)~~( )

a. Decisions published pursuant to Section 63-3045B(6), Idaho Code; ~~(3-15-22)~~( )

b. Data in a ~~form~~ manner that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer. ~~(3-15-22)~~( )

701. (RESERVED)

702. DISCLOSURE OF INFORMATION: THIRD PARTIES.
Sections 63-3076 and 63-3077, Idaho Code

01. In General. The Tax Commission ~~may not~~ doesn't disclose returns or return information about a taxpayer to any person other than that taxpayer or an authorized representative of the taxpayer except as provided by statute or rule. ~~(3-15-22)~~( )

02. Written Authorization to Disclose Information. (3-15-22)

a. The Tax Commission may disclose a taxpayer's returns or return information to a person designated in writing by that taxpayer. (3-15-22)

b. The written authorization ~~must~~ contains: ~~(3-15-22)~~( )

i. The taxpayer's name, address, phone number, email address, and social security number, employer identification number, or other identifying number that relates to the returns or return information to be disclosed; ~~(3-15-22)~~( )

ii. The name ~~and~~, address, phone number, and email address of the person to whom disclosure is authorized; ~~(3-15-22)~~( )

iii. Language indicating the taxpayer's consent to disclosure of information; (3-15-22)

iv. The tax period or periods for which disclosure may be made; and (3-15-22)

v. The signature of the taxpayer, or if the taxpayer is a corporation or other business organization or an entity other than an individual, the signature of an authorized employee or officer of the taxpayer. (3-15-22)

c. A written complaint or inquiry by a taxpayer to an elected official of the executive or legislative branches of state or federal government relating to the Tax Commission's actions or positions relating to that taxpayer is an authorization for the Tax Commission to disclose information relevant to the complaint or inquiry to the official, or the official's delegate. (3-15-22)

03. Audits or Investigations. Tax Commission employees and authorized agents may make inquiries of any person or any employee of a person to collect or ascertain any tax liability, to determine the correctness of a return or return information, or for any other purpose relating to the Tax Commission's duties of administering or enforcing Idaho tax laws. Disclosures necessary to these inquiries are authorized. (3-15-22)

04. Testimony in Judicial or Administrative Proceedings. If a Tax Commissioner, Tax Commission employee, or agent is ~~required~~ called to appear in court in an action where the Tax Commission~~,~~ employee or agent is not a party or where taxation is not in issue, by subpoena or otherwise, ~~he~~ they may appear but shall refuse to testify without written authorization from the taxpayer, and may object to ~~his~~ their appearance on the basis of this ~~rule~~ Section and Section 63-3076, Idaho Code. Information requested in a subpoena issued by a United States Grand Jury shall be provided. ~~(3-15-22)~~( )

703. DISCLOSURE OF INFORMATION: GENERAL PUBLIC.
Sections 63-3076, 63-3077, Idaho Code

01. Public Information. The Tax Commission may disclose information about a taxpayer that is public information. This includes information introduced as evidence in any court, before the Board of Tax Appeals, through the filing of liens, or through publication other than by the Tax Commission. (3-15-22)

02. Correction of Information. The Tax Commission, after notifying the taxpayer, may disclose information necessary to correct misleading statements or misrepresentations publicized by the taxpayer or ~~his~~ their agents or employees regarding ~~his~~ their liability to the state of Idaho, ~~his~~ their conduct in relation to the Tax Commission, or proceedings, audits or investigations of the taxpayer by the Tax Commission. ~~(3-15-22)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

705. DISCLOSURE OF INFORMATION -- IDENTITY THEFT.
Section 63-3077F, Idaho Code

01. Written Information Request. The Tax Commission may disclose the name and address to the victim upon receipt of a valid written information request. (3-15-22)

a. The written request ~~must~~ contains: ~~(3-15-22)~~( )

i. The victim's name, address, and social security number or other tax identification number; (3-15-22)

ii. The tax year affected; (3-15-22)

iii. The signature of the victim or legal representative; (3-15-22)

iv. Copies of the victim's driver's license and social security card or passport, if applicable. (3-15-22)

v. If the victim is a minor, a copy of the birth certificate along with the driver's license or passport of the parent or legal guardian. (3-15-22)

vi. If the victim is deceased, a copy of the legal document authorizing the executor of the estate along with the executor's driver's license or passport. (3-15-22)

706. -- 799. (RESERVED)

800. DEFINITIONS FOR PURPOSES OF THE TAXPAYERS' BILL OF RIGHTS.
Title 63, Chapter 40, Idaho Code

01. Collection and Enforcement. The terms collection and enforcement include only post-assessment processes. (3-15-22)

02. Publication. Publication means communicating to the general public. Publication does not include internal communication or communication with other governmental agencies as provided for by statute. (3-15-22)

03. Written Notification of Representation. A taxpayer's written notification ~~that he will be represented~~ of representation by another person ~~must~~ has to include the information ~~required~~ necessary for a valid power of attorney. If the notification is not valid, the revenue officer shall communicate with the taxpayer. The revenue officer ~~should~~ exercises reasonable care in determining whether a power of attorney exists. ~~(3-15-22)~~( )

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES

37.01.01 – RULES OF PROCEDURE OF THE IDAHO DEPARTMENT OF WATER RESOURCES AND THE WATER RESOURCE BOARD

DOCKET NO. 37-0101-2601

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 42-203A, 42-204, 42-211, 42-222, 42-304, 42-1701A, 42-1766, and 42-3805.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

In accordance with Section 67-5292, Idaho Code, the Department of Water Resources is reviewing its Rules of Procedure, IDAPA 37.01.01, to explore updating this chapter to include provisions intended to promote fairness and efficiency and to prevent bias in contested case proceedings before the agency. The Rules of Procedure establish the standards and requirements for parties to participate in contested case proceedings before the Idaho Department of Water Resource or the Idaho Water Resource Board. In general, the Rules of Procedure address topics related to contested cases such as pleadings, motions, discovery, witnesses, hearings, orders, and appeals. The scope of this rulemaking will be limited to determining whether the content of the rule chapter is necessary, incorporating language to improve fairness and efficiency, and to prevent bias in contested case proceedings before the agency.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2026, Idaho Administrative Bulletin, Volume 26-6, pages 42-43.

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 Megan Jenkins at Megan.Jenkins@idwr.idaho.gov, (208) 287-4800.

Anyone may submit written comments regarding this proposed rulemaking by mail to the address listed below or by email to rulesinfo@idwr.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2026.

DATED this 28th day of August, 2026.

Megan Jenkins, Rules Review Officer
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720 Boise, ID 83720-0098
Phone: (208) 287-4800

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 37-0101-2601
(Only Those Sections With Amendments Are Shown.)

37.01.01 – RULES OF PROCEDURE OF THE IDAHO DEPARTMENT OF WATER RESOURCES AND THE WATER RESOURCE BOARD

205. STANDARDS OF CONDUCT.

01. Participant Standards. All persons participating in or attending a contested case proceeding before the agency must conduct themselves in an ethical, courteous, and respectful manner during all phases of the proceeding. The presiding officer may exclude a person from a proceeding who in manner or appearance is disruptive or disrespectful. Disruptive conduct or appearance that is serious in nature may be cause for dismissal of the disrupting party from the proceeding. ~~(3-18-22)~~( )

02. Presiding Officer Standards. Presiding officers must maintain neutrality, independence, and freedom from outside influence. The agency head shall establish a presiding officer code of conduct that, among other things, provides for independent and unbiased decision-making by presiding officers both as perceived and in fact. Failure of a presiding officer to comply with the code of conduct or applicable rules of procedure may result in corrective action. ( )

(BREAK IN CONTINUITY OF SECTIONS)

414. EX PARTE COMMUNICATIONS.

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, upon commencement of formal proceedings under Rule 100 the following restrictions apply: ( )

01. Presiding Officer Communications. ~~a~~ The presiding officer ~~serving in a contested case~~, the agency head, and any attorney allowed to provide counsel to the presiding officer shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, agency staff, government official, or member of the general public, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ~~ex parte with a party concerning~~ strictly about procedural or scheduling matters ~~(e.g., scheduling)~~ with any party, agency staff, government official, or member of the general public, provided no substantive issue is discussed. ~~Communications with a presiding officer regarding non-substantive issues from members of the general public not associated with any party are not required to be reported by this rule~~ This rule does not prohibit the presiding officer from requesting and receiving agency staff reports or memoranda as provided in Rule 602, provided all requirements of Rule 602 are followed. ( )

02. Party Communications. A party to a contested case ~~before the agency~~ shall not communicate directly or indirectly with the presiding officer or the agency head regarding any substantive issue in the contested case, except upon notice and opportunity for all parties to participate in the communication. Written communications from a party showing service upon all other parties are not ex parte communications. ( )

03. Prohibited Communications. ~~When a presiding officer becomes aware of a communication regarding any substantive issue from a party or representative of a party or a member of the general public during a contested case,~~ If a prohibited communication occurs, the presiding officer shall place a copy or written summary of the communication in the case file, ~~for the case and order the party providing the communication to serve a copy of the communication or written summary upon all parties of record~~ serve it upon all parties of record, and provide an opportunity for parties to respond. Repeated violations of this rule are cause for the presiding officer to dismiss an action or to dismiss a party from a contested case. ~~Written communications from a party showing service upon all~~

~~other parties are not ex parte communications.~~ ~~(3-18-22)~~( )

415. PRESIDING OFFICER LEGAL COUNSEL.
The presiding officer may be assisted by legal counsel provided by the Idaho Office of Attorney General. The role of such legal counsel is limited to providing legal assistance to the presiding officer in connection with the contested case. An attorney providing legal assistance to the presiding officer shall not consult with or represent any agency employee or contractor in connection with the contested case, examine witnesses, present oral argument, or provide to the presiding officer any factual information that is not in the agency record created under section 67-5249, Idaho Code. ( )

41~~5~~6. -- 509. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

551. VENUE, FACILITIES ~~AT OR~~ FOR HEARING, AND A.D.A. REQUIREMENTS.

01. Venue. In general, in-person hearings should be held in the county where the subject matter of the contested case arises, unless the parties agree to hold the hearing in a different location. Hearings may be conducted in Department offices. The presiding officer has the discretion to select a venue for hearing that ensures a fair, efficient, and economical determination of the issues presented in the contested case. ( )

02. Facilities and A.D.A. Requirements. All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the assistance request must be made. ~~(3-18-22)~~( )

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES

37.03.08 – WATER APPROPRIATION RULES

DOCKET NO. 37-0308-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 42-1805(8), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

In accordance with Section 67-5292, Idaho Code, the IDWR is reviewing IDAPA 37.03.08 to assess whether the content of the rule chapter is still necessary. This rulemaking will review the Water Appropriation Rules of the Idaho Department of Water Resources (IDAPA 37.03.08). Specifically, IDWR seeks public comment regarding opportunities to streamline and improve the process for requesting additional information from water right applicants pursuant to Rule 040.04 (Rule 040.04 Additional Information Requirements), such as initiating the request for additional information within 45 days of receiving the application.

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

The rule governs fees for filing applications for permit to appropriate water, and fees to republish a notice of an application. No changes to the fee amounts are proposed because fees governed by the rule are set forth in Section § 42-221, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2026 Idaho Administrative Bulletin, Vol. 26-6, pages 44-45.

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 Megan Jenkins at Megan.Jenkins@idwr.idaho.gov, (208) 287-4800.

Anyone may submit written comments regarding this proposed rulemaking by mail to the address listed below or by email to rulesinfo@idwr.idaho.gov. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2026.

DATED this 28th day of August, 2026.

Megan Jenkins, Rules Review Officer
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720 Boise, ID 83720-0098
Phone: (208) 287-4800

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 37-0308-2601
(Only Those Sections With Amendments Are Shown.)

37.03.08 – WATER APPROPRIATION RULES

040. PROCESSING APPLICATIONS FOR PERMIT.

01. Public Notice Requirement. (7-1-24)

a. Publication of an application will be pursuant to Section 42-203A, Idaho Code. (7-1-24)

b. For an application that proposes diversion in excess of ten (10) cfs or storage of one thousand (1,000) af, the Department will accomplish statewide circulation pursuant to Section 42-203A(2), Idaho Code, by publication of a legal notice at least once each week for two (2) successive weeks in; (7-1-24)

i. A newspaper, as defined in Section 60-106, Idaho Code, of general circulation in the county in which the point of diversion is located; and (7-1-24)

ii. At least one (1) daily newspaper, as defined in Section 60-107, Idaho Code, that the Director determines is of general circulation within each of the Department's four (4) administrative regions. (7-1-24)

c. The Department shall make an application accepted for filing available on the Department's website pursuant to Section 42-203A(3), Idaho Code. (7-1-24)

d. Publication in the newspaper pursuant to Section 42-203A(2), Idaho Code, constitutes the official notice of the application. (7-1-24)

e. An application amended under Paragraph 035.04.a. after publication requires republication. The applicant must file the amended application with the republication fee required by Section 42-221F, Idaho Code. (7-1-24)

f. If a moratorium order is amended or repealed allowing the Director to continue processing an application previously held without final action, the Department will republish an application that was published prior to being held for the moratorium. Before republication, the applicant must pay the republication fee required by Section 42-221F, Idaho Code. (7-1-24)

g. Failure to pay a required republication fee within thirty (30) days after the applicant is notified to do so is cause for the Director to void the application, unless a processing delay is approved under Section 036. (7-1-24)

h. The Director may deny approval of an application filed for diversion of ground water in a designated critical ground water area without publication of the application if the Director believes that there is insufficient water available for the proposed water use. An application that includes a mitigation plan proposing to offset injury to existing water rights will be published prior to the Director's evaluation of the application under Subsection 045.01. (7-1-24)

02. Protests, Intervention, Hearings, and Appeals. (7-1-24)

a. Section 42-203A, Idaho Code, governs protests against application approval. The Department will treat a protest as a pleading filed pursuant to IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (7-1-24)

b. A protest may be filed on a form supplied by the Department or in any other format that includes the same information as the Department's form. (7-1-24)

c. If a single protest names more than one (1) individual protestant and does not identify a representative, the Department will consider the first person listed to be the spokesperson and primary contact for service of documents for the group of individuals named as protestants. (7-1-24)

d. The Department will not consider a general protest (blanket protest) against an application for a particular class of use or from a particular source of water a valid protest. A protest must identify the specific application being protested. (7-1-24)

e. The Department will not accept a protest or petition to intervene unless the protest or petition to intervene is filed with the statutory filing fee required by Section 42-221L, Idaho Code, except any subdivision of the state, as defined in Section 67-2301, Idaho Code, is exempt from paying filing fees. (7-1-24)

f. Petitions to intervene in a protested application matter must comply with IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (7-1-24)

g. Hearings will be scheduled and held pursuant to IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (7-1-24)

h. A decision of the Department may be appealed pursuant to IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (7-1-24)

03. Burden of Proof. (7-1-24)

a. Burden of proof has two (2) parts: first, the burden of producing evidence to present a prima facie case, and second, the ultimate burden of persuasion. (7-1-24)

b. For evaluation of Section 42-203A(5), Idaho Code, criteria for a protested application: (7-1-24)

i. The applicant has the initial burden of producing evidence for the evaluation of Section 42-203A(5)(a) through (d) and (f) through (g), Idaho Code, criteria and of producing evidence of which the applicant is knowledgeable for the evaluation of Section 42-203A(5)(e), Idaho Code, criteria. (7-1-24)

ii. The protestant has the initial burden of producing evidence of which the protestant can reasonably be expected to be more cognizant than the applicant for Section 42-203A(5)(e), Idaho Code criteria. (7-1-24)

iii. The applicant has the ultimate burden of persuasion of Section 42-203A(5)(a) through (g), Idaho Code criteria. (7-1-24)

c. For evaluation of Section 42-203C, Idaho Code, criteria for a protested application: (7-1-24)

i. The protestant has the initial burden of producing evidence under Subsection 045.02, that the application will cause a significant reduction, except that the applicant has the initial burden of producing evidence of the proposed project design, construction, operation, and directly associated operations of which the applicant is knowledgeable or can reasonably be expected to be knowledgeable. (7-1-24)

ii. The protestant has the ultimate burden of persuasion on whether the application causes a significant reduction under Subsection 045.02 and whether it meets the public interest criteria in Section 42-203C(2), Idaho Code, under Subsection 045.03. (7-1-24)

d. For an unprotested application or an application for which all protests have been resolved, the Director will evaluate the application, any information submitted pursuant to Subsections 040.04, 045.01, 045.02, and 045.03, and information in the Department's files and records to determine compliance with Sections 42-203A(5) and 42-203C, Idaho Code. For an unprotested application or an application for which all protests have been resolved,

the applicant has the burden of producing evidence and the ultimate burden of persuasion on whether the application satisfies the applicable statutory criteria. (7-1-24)

04. Additional Information Requirements. (7-1-24)

a. For applications that are not protested or for which all the protests have been withdrawn, ~~T~~the Department may require the applicant to file any of the additional information under Paragraph 040.04.c. or 040.04.d. ~~if the official record for the application does not contain sufficient information to evaluate the applicable criteria in Section 045 and other statutory criteria. The Department will notify the applicant of the additional information required.~~ ~~(7-1-24)~~( )

i. A withdrawn protest is one for which the party who filed the protest notified the Department in writing of its conditional or complete withdrawal. ( )

ii. For applications that are not protested, the Department will notify the applicant of the required additional information within forty-five (45) days of the date that protests against the application are due, unless the Department notifies the applicant prior to the expiration of the forty-five (45) day period that good cause exists to extend the deadline. ( )

iii. When all the protests against an application have been withdrawn completely or conditionally, the Department will notify the applicant of the required additional information within forty-five (45) days of the date that the Department received notice that the last protest against the application was withdrawn, unless the Department notifies the applicant that good cause exists to extend the deadline. ( )

~~b~~iv. Unless the Department extends the time for filing, the additional information must be filed within thirty (30) days after the Department notifies the applicant of the additional information requirements. The Department may grant an extension of time to file the required additional information if the applicant files a written request showing good cause. ~~(7-1-24)~~( )

~~i. The Department may grant an extension of time to file the required additional information if the applicant files a written request showing good cause.~~ ~~(7-1-24)~~

~~ii~~v. If the ~~required~~ applicant fails to respond to a request for additional information ~~is not filed~~ within the time ~~allowed~~ prescribed, ~~including any extensions granted,~~ the Department may void the application. ~~(7-1-24)~~( )

vi. If the applicant files additional information in response to the Department's notice, the Department will rely on the available information to evaluate the application as described in Section 045, regardless of whether the Department perceives the applicant's additional information submittal to be complete or sufficient. ( )

vii. Before proceeding as described in Section 045, the Department may seek clarification of the additional information submitted and provide the applicant reasonable opportunity to submit clarifying information or an explanation. ( )

viii. The burden of proof and persuasion set forth in Subsection 040.03 shall not be affected by the Department declining to request additional information. ( )

b. For protested applications, The Department may request the additional information identified in Paragraph 40.04.c or 40.04.d during the contested case process, consistent with the Department's Rules of Procedure (IDAPA 37.01.01). ( )

c. For purposes of evaluating the application under Subsection 045.01, the Department may request additional information, including, but not limited to, the following: (7-1-24)

i. Project design, construction, operation techniques, or mitigation measures that the applicant will employ to eliminate or reduce the impact on other water rights. (7-1-24)

ii. The proposed project water requirements including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year. (7-1-24)

iii. The quantity of water available from the source applied for, including, but not limited to, the flow rates for surface water sources available during periods of peak and average project water demand, the properties of the aquifers from which water is to be taken from for ground water sources, and other sources of supply that may be used to supplement the water source proposed in the application. (7-1-24)

iv. Evidence documenting an interest in the lands necessary for all project works and the place of use including, but not limited to, copies of deeds, leases, easements, or well sharing agreements. In the instance the land necessary to construct and operate the proposed project is privately-owned land not in the applicant's ownership, the applicant must submit evidence documenting that the applicant has an interest in the land, has authority to exercise eminent domain to obtain the interest, or has another arrangement with the landowner establishing an interest. In the instance of a project diverting water from or conveying water across federally owned land, the applicant must submit evidence documenting that the applicant filed the appropriate form to request or initiate access and that access is authorized or a decision is pending. (7-1-24)

v. For hydropower use, evidence demonstrating compliance with Sections 42-205 and 42-206, Idaho Code. (7-1-24)

vi. Requests for other needed permits, licenses, and approvals. The applicant must keep the Department apprised of the status of the requests and any subsequent approvals or denials. (7-1-24)

vii. Evidence to show that it is reasonably probable that financing will be available to appropriate the water and put it to the beneficial use proposed. (7-1-24)

viii. If the applicant is a governmental entity proposing to use taxing, bonding, or contracting authority to raise the funds needed to commence and pursue project construction, a proposed project construction schedule and a plan describing how the applicant intends to utilize its taxing, bonding, or contracting authority in connection with the proposed project construction schedule. (7-1-24)

ix. Plans, specifications, and estimated construction costs for the project works definite enough to allow for determination of project impacts and implications. (7-1-24)

x. Letters requesting comment and any responding comment on the proposed project construction and operation from the governing body of the city, county, or tribal reservation within which the point of diversion and place of use are located: any irrigation district, canal company, or other water delivery entity within which the proposed project is located; and from other people, entities, or agencies with interests in the local area that may be affected by the proposed water use as determined by the Department. (7-1-24)

xi. Design, construction, operation techniques, or mechanical equipment that will be employed to achieve efficiency in conveyance or use of water and to minimize waste. (7-1-24)

xii. Evidence demonstrating compliance with the Idaho State Water Plan. (7-1-24)

d. For purposes of evaluating the application under Subsections 045.02 and 045.03, the Department may request additional information including, but not limited to, the following: (7-1-24)

i. If the project proposes irrigation use, the crop rotation, including acres under each crop type, for newly developed land. Also the kinship, if any, of the operator of the land to be irrigated by the project to the applicant; the location and acreage of other irrigated land owned, leased, or rented by the applicant; a soil survey prepared in accordance with the Natural Resources Conservation Service irrigable land classification system; a schedule for bringing into production the project land; the name, address, and number of shares held by each shareholder if the applicant is a corporation; and evidence of tax-exempt status if the applicant is a corporation so claiming. (7-1-24)

ii. The number and kinds of jobs created or eliminated as a direct result of project development including both the construction and operating phases of the project. If jobs are seasonal, the estimated number of months per year of employment. (7-1-24)

iii. For an application that proposes appropriating more than twenty-five (25) cfs, or more than ten thousand (10,000) af of storage, or generating more than five (5) megawatts of power, the changes to community services required during the construction and operation phases of the project including, but not limited to, changes to schools, roads, housing, public utilities, and public health and safety facilities, if any. (7-1-24)

iv. The source of energy for diverting and using water for the project, the estimated instantaneous demand and total amount of energy that will be used, the efficiency of use, and energy conservation methods. (7-1-24)

v. The location, amount, and quality of return flow water, and any water conservation features of the project. (7-1-24)

vi. The availability, foreseeability, and cost of alternative energy sources to ameliorate the economic impact the proposed use will have on electric utility rates in the state of Idaho. (7-1-24)

e. Unless the Director determines otherwise, information under Paragraph 040.04.c. or 040.04.d. is not required for: (7-1-24)

i. An application that seeks to appropriate five (5) cfs or less, or store five hundred (500) af or less of unappropriated water. (7-1-24)

ii. An application that proposes to use water from a source in the Swan Falls Trust Water Area to irrigate two hundred (200) acres or less or any other use that the Director determines will reduce the flow of the Snake River measured at the Murphy Gage by two (2) af per day or less. (7-1-24)

f. Unless the Director determines otherwise, information under Paragraph 040.04.d. is required for an application that proposes to use water from a source in the Swan Falls Trust Water Area to irrigate more than two hundred (200) acres or any other use that the Director determines will reduce the flow of the Snake River measured at the Murphy Gage by more than two (2) af per day. (7-1-24)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.60 – RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-2601

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 49-201, 49-402D, and 49-443, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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 seeking to eliminate all references to registration stickers and license plate expiration in order to have this rule correspond with legislative changes from the 2026 session. House Bill 533 removed the requirement to issue registration stickers, and House Bill 577 eliminated the ten-year expiration of the physical license plate. These are not regulatory measures.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2026, Idaho Administrative Bulletin, Vol. 26-5, pages 29-30.

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 Brendan Floyd at 208-334-8474.

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 28, 2026.

DATED this 28th Day of August, 2026.

Brendan Floyd
Policy Specialist
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
208-334-8474
Brendan.floyd@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0260-2601
(Only Those Sections With Amendments Are Shown.)

39.02.60 – RULES GOVERNING LICENSE PLATE PROVISIONS

011. LICENSE PLATE PROVISIONS FOR ALL LICENSE PLATES.

01. Plate Numbering and Lettering. The Department is authorized to assign unique plate letter/number spacing schemes to ensure unique numbering systems for all license plate programs and to administer this chapter. (7-1-26)

a. The Department will determine how many characters are allowed on any given plate. ( )

b. Except for Year of Manufacture plates, the plate number may not duplicate an existing combination in use on the same size plate or replicate a county-designated or law enforcement plate combination. ( )

02. Plate Life Expiration Date. License plates will be valid for the period described in 49-443 (2) and will expire on the last day of the month, consistent with the month of the registration expiration. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

153. PROVISIONS FOR TRANSPORTER PLATES.

01. Purpose. Utility and boat trailers that weigh under two thousand (2,000) pounds unladen may be moved by a manufacturer, dealer, or an employee of either, or by a transporter service contracted by the vehicle's manufacturer or dealer upon registration and payment of an annual fifteen dollar ($15) transporter plate fee to the department, or by purchase of a single trip permit. These plates may be used only on boat trailers and utility trailers for demonstration purposes, and may be used while laden for demonstration purposes. (7-1-24)

02. Numbering of Plates. Transporter plates will be numbered from PA1 TO PZ9999. (7-1-26)

03. Renewal of ~~Plates~~ Registration. The transporter registration ~~and plate are~~ is valid for one (1) year from January 1 through December 31 and may be renewed ~~by use of a registration sticker showing the year of validation~~ annually. ~~(7-1-24)~~( )

04. Use of Plates. Transporter plates may be moved by registrants from one (1) utility or boat trailer weighing under two thousand (2,000) pounds unladen to another trailer meeting this criteria during the current registration period. Vehicles towing a laden trailer displaying a transporter plate are to be registered within the appropriate gross vehicle weight category for the combined load. Transporter plates are to be displayed on the rear of the trailer. (7-1-26)

05. Possession of Registration. When transporting a vehicle displaying a transporter plate, the operator of a towing vehicle will carry the transporter registration in the towing vehicle at all times. (7-1-24)

06. Violations. Violations of this section include: (7-1-24)

a. Display of a transporter plate on any vehicle not required to be registered under this Section; and (7-1-24)

b. Display of a transporter plate on a vehicle not lawfully under the control of the registration holder. (7-1-24)

07. Penalties: (7-1-24)

a. Violation of this section will be a misdemeanor as provided for by Section 49-236, Idaho Code; and (7-1-24)

b. The plate and registration of anyone who displays a transporter plate other than provided for by this section may be canceled. (7-1-24)

154. PROVISIONS FOR WRECKER PLATES.

01. Purpose. Wrecker plates are for the exclusive use of businesses engaged in the towing of a wrecked, abandoned, salvaged, or disabled motorized vehicle. Plates will not be used on vehicles being repossessed. (7-1-24)

02. Numbering of Plates. Plates will be numbered as determined by the department and will display the abbreviation "WRKR" vertically on the left hand side of the plate. (7-1-24)

03. Renewal of ~~Plates~~ Registration. The wrecker registration ~~and plate are~~ is valid for one (1) year from January 1 through December 31 and may be renewed ~~by use of a registration sticker showing the year of validation~~ annually. ~~(7-1-24)~~( )

04. Use of Plates. Plates are not to be displayed on the towing power unit vehicle nor are they to be used on a vehicle not being towed. Plates are to be displayed on the rear of the towed vehicle in such a manner as to be visible to vehicles approaching from the rear. Wrecker plates may be moved from one (1) towed motorized vehicle to another vehicle under the direct lawful control of the registration holder. (7-1-24)

05. Possession of Registration. When towing a motorized vehicle displaying a wrecker plate, the operator of the towing vehicle will carry the wrecker plate registration in the towing vehicle. (7-1-24)

06. Acquisition/Renewal of Wrecker Plates. Wrecker plates will be issued and renewed through the department by physical or electronic mail using an application and renewal process determined by the department. (7-1-26)

155. PROVISIONS FOR SPECIAL LICENSE PLATE PROGRAM PREQUALIFICATION AND APPLICATION PROCEDURES.

01. Special License Plate Prequalification. A Special Plate Program Application will be provided to each applicant, detailing the procedures for the prequalification and providing information regarding the steps required to successfully accomplish a special plate program. (7-1-24)

02. Submission to the Legislature. For those Special License Plate Programs with enacting legislation that fail to meet the requirements of this Section, the Department will report such finding to the chairman of the Senate Transportation Committee and the chairman of the House Transportation and Defense Committee of the Idaho State Legislature, and will not proceed with production and sale of the special plates. (7-1-24)

03. Appeals. The appeals process will allow the applicant for a special license plate program to appeal the Department's decision to deny the application (See Section 003). The notice of the appeal will be sent in writing via mail, electronic mail or facsimile within twenty (20) days of the denial. (7-1-26)

04. Cancellation of Plate Programs. The Department will notify the plate program sponsor of the intent to cancel the program due to failure to provide an annual report or low active plate count. Active plate count is determined by the number of current active plates, on actively registered vehicles, for the plate program on file with the Department. (7-1-26)

i. The Department will notify current registrants of the cancellation of the special plate program ~~of the cancellation,~~ and advise ~~the~~ that registrants may retain and renew the registration with the ~~additional program fees, and retain t~~ applicable program fees. The plates ~~until the physical plates are required to be replaced, however~~ remain valid unless replacement is required pursuant to Section 49-443, Idaho Code. ~~r~~Replacement plates for the canceled special plate program will not be available, due to loss or damage. ~~(7-1-24)~~( )

ii. The portion of canceled special plate program fees no longer deposited with the nonprofit agency (who has filed a 501 (c) (3) federal income tax status) program sponsor will be deposited in the state highway account. (7-1-24)

~~iii. Upon mandatory replacement of physical plates as required by statute, the customer may choose another specialty program or standard county plates at the customer's preference.~~ ~~(7-1-26)~~

i~~v~~ii. The Department will include in its annual report to the chairman of the Senate Transportation Committee and the chairman of the House Transportation and Defense Committee of the Idaho State Legislature any special plate programs that have been canceled during the preceding year. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

200. LICENSE PLATE PROVISIONS FOR SPECIAL PLATES.

01. Year of Manufacture Plates. (7-1-24)

a. Vehicles manufactured up through 1974, excluding model years 1969, 1971, 1972, and 1973, but including and ending with model year 1974 are eligible for this program. (7-1-24)

b. The license plate must be in serviceable condition as originally manufactured, i.e., cannot be marred, bent, faded, or otherwise damaged to the point it is illegible. If the plate is repainted to bring it to a serviceable condition, the colors will match the original colors as closely as possible and will equal or exceed the original quality. The plate number cannot be a duplicate of ~~a previously manufactured~~ an active "year of manufacture" plate ~~still in use~~. ~~(7-1-24)~~( )

~~**c.** The application for use of the plate will include a statement signed by the applicant attesting that the applicant understands, if the plate use is approved, the plate does not have reflectorized material which meets the requirements of Section 49-443, Idaho Code. The responsibility for any accident or injury arising out of the possible consequence of not having this reflectorized safety feature on the license plate will be borne by the registrant.~~ ~~(7-1-24)~~

~~**d**~~**c.** "Classic" or "Old Timer" plates may be used in conjunction with this revived plate at the option of the registrant. (7-1-24)

02. Disabled Veteran License Plates. Disabled veteran license plates may, upon the registrant's request, display the international disability symbol to ensure reciprocal parking privileges in all states and provinces. (7-1-24)

03. Custom Vehicle License Plates. The applicant will pay the initial program fee of $25 and the annual program fee of $15. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.

01. Character Limitations. No special characters, or punctuation marks, may be used for personalized

messages on license plates. (7-1-24)

~~a. The Department will determine how many characters are allowed on any given plate.~~ ~~(7-1-24)~~

02. Issue of Personalized Plates. Personalized plates may be issued to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to: (7-1-24)

a. Commercial vehicles registered under, or required to be registered under, the International Registration Plan (IRP)~~, because the designators PRP are required to be printed on the plate~~; ~~(7-1-24)~~( )

~~b. Vehicles for which the designators "PRP" are required to be printed on the plate to identify the use; and~~ ~~(7-1-24)~~

~~c~~**b.** Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers. (7-1-24)

03. Specific Requests. Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, fax transmission time, or data entry time will prevail. If the postmarks are the same, the date stamped upon arrival will prevail. Applications processed at county assessors' offices will be considered valid when entered in the system. Telephone requests will not be accepted. (7-1-24)

04. Lack of Current Plates. When an applicant for personalized plates does not have current regular number plates: (7-1-24)

a. The Department may, upon payment of all required fees, issue a proof of registration document consistent with Section 012. (7-1-26)

05. Credits. When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only. (7-1-24)

06. Renewing Plates. The applicant will have the choice of renewing existing personalized plates ~~with validation stickers~~ or ordering a new set of plates at the time of renewal. If new plates are requested, a plate and mailing fee will be charged in addition to all other fees that are due. Personalized plates will be reissued in accordance with Section 49-443, Idaho Code. ~~(7-1-24)~~( )

07. Transfer of Plates. When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled. (7-1-24)

08. Acceptability of Plates Message. Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (7-1-24)

~~a. The characters requested may not duplicate an existing combination in use on the same size plate or replicate an existing law enforcement plate combination.~~ ~~(7-1-24)~~

~~b~~**a.** The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of obscenity, contempt, prejudice, hostility, insult, racial or ethnic degradation, or profanity, as defined by common internet and dictionary resources. (7-1-24)

i. The message may not refer to any of the following: bodily functions, bodily fluids, or intimate body parts; sexual preference or orientation; acts of violence; illegal substances or the use thereof. (7-1-24)

ii. The message may not represent a group that is commonly known to promote violence, illegal substances or illegal acts. (7-1-24)

~~e~~**b.** The criteria in Paragraph 202.08.~~b~~a. is not to be considered an exhaustive list. A compilation of words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. The Department may also rely on information obtained from law enforcement agencies within or outside of Idaho. ~~(7-1-26)~~( )

~~d~~**c.** When a complaint is received from the public concerning an issued plate, the name of the complainant will not be recorded nor, if known, revealed. (7-1-24)

~~e~~**d.** Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles. An applicant does, however, have a right to a hearing on the decision. (7-1-26)

09. Message Preferences. Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail or email. (7-1-24)

10. Recalled Plates. Personalized plates may be recalled by the Department for the following reasons: (7-1-24)

a. Error in manufacturing; or (7-1-24)

b. Clerical error. (7-1-24)

c. Unacceptable personalized messages as outlined in Paragraph 202.08.~~b~~a. ~~(7-1-26)~~( )

11. Unexpired Fees. If a set of personalized plates is recalled or rejected, the personalized plate program fee, will not be refunded but may be transferred to a new issue of personalized plates. (7-1-26)

12. Expired Plates. Personalized plates that have their registration expire will become immediately available for reissue to another applicant. There is no grace period. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

300. PROVISIONS FOR SAMPLE PLATES.
Sample plates are issued ~~at~~ on the "Scenic Idaho/Famous Potatoes" red, white, and blue plate or Special Program License plates as follows: ~~(7-1-24)~~( )

01. Plate Size. Plates must adhere to license plate manufacturing standards in size and display the abbreviation SAMP in the ~~sticker box~~ lower right-hand corner on both passenger car and motorcycle license plates. ~~(7-1-26)~~( )

02. Personalized Sample Plates. Personalized Sample plates are issued on both plate sizes. (7-1-24)

a. The acceptability screening process in Subsection 202.08 applies. (7-1-26)

b. The Department will adopt written policy for the issuance of duplicate and replacement sample plates with personalized character combinations. (7-1-24)

c. The department may include other special license plate programs for sample plate sale, when not prohibited by code, or that would not cause a compromise of a special eligibility plate program. (7-1-24)

(BREAK IN CONTINUITY OF SECTIONS)

405. EXEMPT PLATE DISPLAY.
Exempt license plates will be displayed in accordance with Section 49-428, Idaho Code. ~~The designator "EXMP" will be provided with each exempt plate and be attached to the plate(s) in the space provided for this purpose. The department may have the EXMP designator printed in the appropriate space on the plate as an alternative to the sticker.~~ ~~(7-1-26)~~( )

406. -- 407. (RESERVED)

408. EXEMPT PLATE STATUS.

~~**01. Non-Expiring Plates**. Exempt plates are non-expiring and require no annual renewal.~~ ~~(7-1-24)~~

0~~2~~1. Transfer of Plates. Exempt plates may be transferred between vehicles. If an exempt plate is transferred to another vehicle, a transfer request must be made to the Department. (7-1-24)

0~~3~~2. Reissue of Plates. Exempt plates will also be assessed personalization and program fees upon each reissuance, if applicable. ~~(7-1-24)~~( )

409. UNDERCOVER PLATE STATUS.

01. Expiration of ~~Plates~~ Registration. Undercover license plates ~~will expire annually or biennially based upon the application of the authorized agency~~ remain valid unless replacement is required pursuant to Section 49-443, Idaho Code. Registration status will appear as valid, until expiration date. Renewals must be made to the Department upon expiration of the undercover ~~license plate~~ registration. ~~(7-1-24)~~( )

02. Transfer of Plates. Undercover license plates may be transferred between vehicles. If an undercover license plate is transferred to another vehicle, a transfer request must be made to the Department's Vehicle Services Section/Special Plates Unit. (7-1-24)

03. Reissue of Plates. Undercover plates will be reissued in accordance with Section 49-443(2), Idaho Code. (7-1-24)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.80 – RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY

DOCKET NO. 39-0280-2601

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 49-1233(5), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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

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

This rule chapter is scheduled for review under the Office of the Administrative Rule Coordinator's 8-year rule review schedule. Along with non-substantive cleanup edits, the department is seeking to remove several sections due to them being outdated or duplicated with statute.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 6, 2026, Idaho Administrative Bulletin, Vol. 26-5, pages 31-32.

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 Brendan Floyd at 208-334-8474.

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 28, 2026.

DATED this 28th Day of August, 2026.

Brendan Floyd
Policy Specialist
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
208-334-8474
Brendan.floyd@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0280-2601
(Only Those Sections With Amendments Are Shown.)

39.02.80 – RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY

001. PURPOSE.
This rule establishes the ~~amount of~~ liability coverage to be carried by motor carriers for personal injury suffered by one (1) person while being transported in a vehicle, any additional amounts for all persons receiving personal injury, and such amount for damage to the property of any person other than the insured. ~~(3-31-22)~~( )

~~**002. INCORPORATION BY REFERENCE.**~~
~~The Idaho Transportation Board incorporates by reference 49 CFR 171.8, 49 CFR 172.101 and its appendix, 49 CFR 173.403, 49 CFR 387 and 49 CFR 387.5, published in the Code of Federal Regulations volume dated October 1, 1997.~~ ~~(3-31-22)~~

00~~3~~2. -- 009. (RESERVED)

010. DEFINITIONS.

01. Common Carrier. Any person who holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property for compensation. (3-31-22)

02. Contract Carrier. Any person who, under individual contracts or agreements, engages in the transportation by motor vehicle of passengers or property in commerce in the state of Idaho for compensation. (3-31-22)

~~**03. Environmental Restoration**. See 49 CFR 387.5.~~ ~~(3-31-22)~~

0~~4~~3. Hazardous Material. See 49 CFR 171.8, 49 CFR 172.101, and 49 CFR 173. (3-31-22)

0~~5~~4. Injury. Harm to the body, sickness, or disease resulting from a motor carrier accident, including death from an injury. (3-31-22)

~~**06. Interstate Carrier**. Any person who owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property.~~ ~~(3-31-22)~~

~~**07. Private Carrier**. Any person not included in the terms "common carrier" or "contract carrier" who or which transports in commerce in the state of Idaho by motor vehicle property of which such person is the owner, lessee, or bailee, when such property is for the purpose of sale, lease, rent or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, is exempt.~~ ~~(3-31-22)~~

0~~8~~5. Property Damage. Damage to or loss of use of tangible property. (3-31-22)

011. -- 019. (RESERVED)

020. INSURANCE REQUIREMENTS.

~~**01. Insurance Required**. No motor carrier subject to the jurisdiction of the Department may transport~~

~~property or passengers until the carrier has obtained and has in effect the minimum levels of insurance or a surety bond set forth in this rule.~~ ~~(3-31-22)~~

0~~2~~1. **Passenger Carriers**. The minimum levels of insurance or surety bond coverage (for injury, death, or property damage) in any one (1) accident for common/contract passenger carriers are: (3-31-22)

a. For any vehicle with a seating capacity of twenty-five (25) passengers or more -- five million dollars ($5,000,000); (3-31-22)

b. For any vehicle with a seating capacity of twenty-four (24) passengers or less -- one million, five hundred thousand ($1,500,000). (3-31-22)

0~~3~~2. **Property Carriers -- ~~Certain Risky or Perilous Cargoes~~Hazardous Materials**. The minimum levels of insurance or surety bond coverage ~~(for injury, death, environmental restoration, or property damage in any one accident) for common and contract property carriers are:~~ as required in 49 CFR 387.9 ~~(3-31-22)~~( )

~~**a.** Five million dollars ($5,000,000) for carriers of:~~ ~~(3-31-22)~~

~~i. Any quantity of Division 1.1, 1.2, or 1.3;~~ ~~(3-31-22)~~

~~ii. Any quantity of Division 2.3, Hazardous Zone A, or Division 6.1, Packing Group 1, Hazardous Zone A;~~ ~~(3-31-22)~~

~~iii. Highway route controlled quantity of Class 7 material as defined in 49 CFR 173.403;~~ ~~(3-31-22)~~

~~iv. Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of three thousand, five hundred (3,500) water gallons;~~ ~~(3-31-22)~~

~~v. Division 2.1 or 2.2 in bulk;~~ ~~(3-31-22)~~

~~**b.** One million dollars ($1,000,000) for carriers of:~~ ~~(3-31-22)~~

~~i. Oil listed in 49 CFR 172.101; or~~ ~~(3-31-22)~~

~~ii. Hazardous waste, hazardous materials or hazardous substances as defined in 49 CFR 171.8 and listed in 49 CFR 172.101 or its Appendix, but not mentioned in Subsection 020.03.a.~~ ~~(3-31-22)~~

0~~4~~3. **Other Property Carriers**. The minimum level of insurance or surety bond coverage (for injury, death or property damage in any one (1) accident) for common and contract carriers of all other property (including drive away and tow away units transported by the carrier) is seven hundred fifty thousand dollars ($750,000). (3-31-22)

~~**05. Private Carriers**. Private carriers must maintain the insurance required by Section 49-1229, Idaho Code, except private carriers transporting certain risky or perilous cargoes described in Subsection 020.03 must carry insurance as required by that Subsection.~~ ~~(3-31-22)~~

021. ~~CERTIFICATES~~PROOF OF INSURANCE.

~~**01. Filing**. Common/contract carriers and interstate carriers who participate in the base state agreement by registering in Idaho as their base state must file with or be verified by the Department certificates that the insurance or bond described by the certificate of insurance is in effect for the account of the motor carrier.~~ ~~(3-31-22)~~

~~**02. Forms**. The certificates for intrastate common/contract carriers must be either Form E, Department Form E-1, or W.C. 3091 that is completed and signed by the insurance company's underwriting department or its authorized representative.~~ ~~(3-31-22)~~

0~~3~~1. **Coverage**. Policies of insurance and surety bonds ~~required and~~ filed with or verified by the

Department remain in effect ~~as described on the certificate~~ until terminated ~~according to~~ in accordance with Section 49-1233(3), Idaho Code. ~~When~~ If a certificate~~s~~ of insurance show~~s~~ that ~~insurance~~ coverage has lapsed, the Department shall refuse to renew ~~the carrier's vehicle registrations~~ or revoke the carrier's motor vehicle registrations ~~under the authority of~~ pursuant to Section 49-202(10)(12), Idaho Code. ~~(3-31-22)~~( )

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.06 – SOLID WASTE MANAGEMENT RULES

DOCKET NO. 58-0106-2601 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This rulemaking action is authorized by Sections 39-105, 39-107, 39-7424, and 39-7425, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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 agency address below.

DESCRIPTIVE SUMMARY: The 2026 Legislature adopted House Bill 555 (H555) which removes municipal solid waste (MSW) regulatory responsibility from public health districts and transfers those responsibilities to DEQ for provisions within the Idaho Solid Waste Facilities Act, Title 39, Chapter 74, Idaho Code. Transferred responsibilities include enforcing statutory and rule based solid waste management operational requirements; review and approval of operations plans, closure plans and activities, post-closure plans and activities, and corrective action plans; and the establishment and collection of fees. Industry stakeholders, not DEQ, developed and lobbied for the fees to support DEQ's assumption of the health districts' solid waste authorities under the SWFA and the Memorandum of Understanding (MOU) with DEQ and the corresponding increased solid waste program workload. Section 39-7426(3), Idaho Code, indicates that the solid waste regulatory fund is for DEQ expenditures for implementing the chapter and rules. While not explicitly stated by industry in the SWFA or H555 fiscal note, the fees are also intended to fund the work previously done by the heath districts under a MOU with DEQ, as well as additional technical staff for the solid waste program to better manage the technical engineering workload. For DEQ to take on the additional workload, approximately $400,000 in additional funding is needed for the solid waste program. The fees authorized to be written into rule for applications and non-municipal solid waste (NMSW) annual inspections are anticipated to provide approximately half of the funding needed. The other half is anticipated to be funded specifically by the municipal solid waste (MSW) annual inspection fee and the MSW disposal fee of $0.07 per ton.

This proposed rulemaking is limited in scope to the assessment and collection of the fees H555 directs DEQ to establish by rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: As a result of the amendments to the Solid Waste Facilities Act by H555, these rules repeal the IDAPA 58.01.06.994 Commercial Solid Waste Siting License Fee and establishes a new section, IDAPA 58.01.06.996, Fee Schedule. The fees included in the Fee Schedule are: 1) annual inspection fees for MSW and Tier III landfills, Tier III processing, incinerators, non-hazardous solid waste impoundments, and all Tier II facilities; 2) MSW and Tier III landfill application fees; and 3) Tier II facilities, NSWI, and all other Tier III facility application fees. The referenced MSW disposal fee per ton of waste disposed and the MSW annual inspection fee were established by H555 and became effective on July 1, 2026.

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.

IDAHO CODE SECTION 39-107D STATEMENT: IDAPA 58.01.06, Solid Waste Management Rules, are part of the requirements for Idaho's EPA approved Solid Waste Program. These rules regulate activities that are not specifically detailed by the federal government and are broader in scope than federal regulations for determining an open dump. The federal government does provide specific criteria for MSW landfills and open dumps; however, the federal regulations do not provide the same level of detail for non-municipal solid waste facilities (NMSWLF) in Idaho. In Idaho, the Solid Waste Management Rules are more facility-specific and comprehensive for NMSW and establish facility classifications/tiers and state requirements for siting, design, operation, and closure. These rules address the technical requirements for solid waste facilities other than MSW landfills.

The revisions in this proposed rule are administrative in nature and add fees for both municipal and non-municipal solid waste facility applications and inspections. The revisions do not set a standard based on science.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. On July 1, 2026, the Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 26-7 pages 93-94. Six scoping meetings were held prior to, and two public meetings were held during the negotiated rulemaking process on July 13, 2026, and August 4, 2026.

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 Solid Waste: Docket No. 58-0106-2601 | Idaho Department of Environmental Quality (DEQ).

INCORPORATION BY REFERENCE: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Amanda Henderson amanda.henderson@deq.idaho.gov, (208) 528-2620, or Ben Jarvis at ben.jarvis@deq.idaho.gov, (208) 373-0146.

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 28, 2026. Submit written comments to: amanda.henderson@deq.idaho.gov, or ben.jarvis@deq.idaho.gov.

Dated this 7th day of October, 2026.

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 FEE DOCKET NO. 58-0106-2601
(Only Those Sections With Amendments Are Shown.)

58.01.06 – SOLID WASTE MANAGEMENT RULES

000. LEGAL AUTHORITY.
Sections 39-105, 39-107, ~~and 39-7408C~~ 39-7403, 39-7419, 39-7424, and 39-7425, Idaho Code. ~~(7-1-26)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

004. APPLICABILITY.
These rules apply to all solid waste unless excluded by Subsection 001.03 and to all solid waste management sites in

Idaho unless excluded by Subsection 001.02. Compliance with these rules does not relieve owners and operators from the obligation to comply with other applicable state or federal laws, including but not limited to the IDAPA 58.01.02, "Water Quality Standards," IDAPA 58.01.11, "Groundwater Quality Rule," and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (7-1-26)

01. Solid Waste Facility Other Than Municipal Solid Waste Landfills (MSWLF) Applicability. Sections 000 through 032 apply to all solid waste facilities other than MSWLF, as specified therein. (7-1-26)

02. ~~Municipal Solid Waste Landfill~~MSWLF Applicability. Sections 000 through 005, and Sections ~~994 through 995~~ 996 apply to all MSWLFs, as specified therein. ~~(7-1-26)~~( )

005. DEFINITIONS.
The terms "Department," "Director," "Person," and "Solid Waste" are defined in Section 39-103, Idaho Code. ~~The term "Ground water" (Groundwater) is defined in Section 39-121, Idaho Code~~ The terms "Applicant", "Co-located waste facilities" (CWF), "Facility", "Ground water" (Groundwater), "Household waste", "Inert waste", "Municipal solid waste landfill unit" (MSWLF), "Nonmunicipal solid waste" (NMSW), "Nonmunicipal solid waste landfill" (NMSWLF), "Open burning", "Operator", "Owner", "Qualified professional", and "Septage" are defined in Section 39-7403, Idaho Code. The terms "Land ~~A~~application ~~U~~unit," "Leachate," "Surface ~~I~~impoundment or ~~I~~impoundment," and "Waste ~~P~~pile or ~~P~~pile" are defined in 40 CFR 257.2. The term "Very ~~S~~small ~~Q~~quantity ~~G~~generator" (VSQG) is defined in 40 CFR 260.10. ~~(7-1-26)~~( )

01. Active Portion. ~~That~~ For purposes of this rule, the part of a unit where waste had been, or may be, disposed of, treated, or otherwise managed, and that has not been closed in accordance with applicable rules. ~~(3-24-22)~~( )

02. Backyard Composting. Composting operations used only by the owner or person in control of a residential dwelling unit to process garbage and yard waste generated at that dwelling unit. (3-24-22)

03. Beneficial Use. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies and agricultural water supplies. A beneficial use is defined as actual current and projected future uses of ground water. (3-24-22)

~~**04. Commercial Solid Waste Facility**. A MSWLF owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excluding a MSWLF owned or operated by a political subdivision, state or federal agency or, municipality or a MSWLF owned or operated by any individual, association, firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership.~~ ~~(3-24-22)~~

0~~5~~4. Composting Facility. See definition of Processing Facility. (3-24-22)

0~~6~~5. Contamination. ~~The~~ For the purposes of this rule, the introduction of a substance into the surface or groundwater causing: ~~(7-1-26)~~( )

a. At or beyond the point of compliance, the concentration of that substance in groundwater resulting in significant degradation, as determined by "Groundwater Quality Rule," or in an exceedance of the maximum contamination level (MCL) specified in the Groundwater Quality Rule; (7-1-26)

b. The concentration of that substance in surface water exceeds a numerical criteria or fails to protect designated beneficial uses specified in, "Water Quality Standards"; (7-1-26)

c. A statistically significant increase in the concentration of that substance in the groundwater at or beyond the point of compliance, or in surface water, where the existing concentration of that substance exceeds the contamination level specified in Subsections 005.08.a. or 005.08.b. of this rule; or (7-1-26)

d. A statistically significant increase in the concentration of that substance in groundwater at the point of compliance, or in surface water, above background of a substance which; (7-1-26)

i. Is not specified in Subsections 005.08.a. or 005.08.b.; (7-1-26)

ii. Is a result of the disposal of solid waste; and (3-24-22)

iii. Has been determined by the department to present a substantial risk to human health or the environment in the concentrations found in the groundwater at the point of compliance, or in surface water. (7-1-26)

06. Cover Material. For purposes of this rule, a soil or other suitable material that is used to protect the waste unit. ( )

07. Decontamination. As used in Subsections 010.01, 011.01, 012.03, and 013.03, "decontamination" is the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal. (7-1-26)

08. Degradation. The lowering of groundwater quality as measured in a statistically significant and reproducible manner. (7-1-26)

09. Disposal. Discharge, deposit, injection, dumping, spilling, leaking, leaching, migration or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater. (7-1-26)

10. Facility. ~~Any~~ For purposes of this rule, any area used for any solid waste management activity, including, but not limited to, storage, transfer, processing, separation, incineration, treatment, salvaging, or disposal of solid waste. ~~(3-24-22)~~( )

11. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (7-1-26)

~~**12. Household Waste**. Any solid waste, including kitchen wastes, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas.~~ ~~(3-24-22)~~

1~~3~~2. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of solid waste by burning. "Open Burning" is not considered incineration. (3-24-22)

~~**14. Inert Waste**. Noncombustible, nonhazardous, and non putrescible solid wastes that are likely to retain their physical and chemical structure and have a de minimis potential to generate leachate under expected conditions of disposal, which includes resistance to biological attack. "Inert waste" includes, but is not limited to, rock, concrete, cured asphaltic concrete, masonry block, brick, gravel, dirt, inert coal combustion by products, inert precipitated calcium carbonate and inert component mixture of wood or mill yard debris.~~ ~~(3-24-22)~~

1~~5~~3. Lift. A vertical rise of compacted solid waste that is complete when it is no longer practical to add additional height without the addition of a cover layer to provide structural stability. (3-24-22)

1~~6~~4. Modification. Any change in the physical characteristics, waste types managed, method of operation, or lateral expansion beyond the boundaries of a site. The following is ~~not~~ considered a modification: ~~(3-24-22)~~( )

a. Major modification: Any change to operation or design that, as determined by a qualified professional and affirmed by the director, may appear to result in an increased risk to human health or the environment. ( )

b. Minor modification: Other actions or modification that, as determined by a qualified professional and affirmed by the director, may not result in an increased risk to human health or the environment. ( )

~~a~~c. The following is not considered a modification: Repair and replacement of existing equipment; ~~(3-24-22)~~( )

~~b~~i. Increase in production rate that does not exceed the Tier level criteria or approved facility capacity; (3-24-22)

~~c~~ii. An increase in hours of operation if more restrictive hours of operation are not specified in an approved operating plan; or (7-1-26)

~~d~~iii. Acquisition of property that is not to be used for the processing or disposal of solid waste. (3-24-22)

~~17. Municipal Solid Waste Landfill Unit (MSWLF). As regulated under Chapter 74, Title 39, Idaho Code, a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, or waste pile, as those terms are defined in 40 CFR 257.2. A MSWLF unit also may receive other types of Resource Conservation and Recovery Act (RCRA) subtitle D wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator (VSQG) waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. (7-1-26)~~

15. Non-Hazardous Solid Waste Impoundment (NSWI). An impoundment that receives pumpable solid waste where 1) the waste does not pass the paint filter test prior to acceptance of liquid or pumpable waste for disposal, and 2) operations are not otherwise regulated under a discharge or land application permit. ( )

~~18. Non-Municipal Solid Waste (NMSW). A solid waste that is: (3-24-22)~~

~~a. Not mixed with household waste; or (3-24-22)~~

~~b. Not excluded from these rules by Subsection 001.01. (7-1-26)~~

~~19. Non-Municipal Solid Waste Landfill (NMSWLF). A landfill that accepts only non-municipal solid waste. (3-24-22)~~

~~20. Open Burning. The combustion of solid waste without: (3-24-22)~~

~~a. Control of combustion air to maintain adequate temperature for efficient combustion; (3-24-22)~~

~~b. Containment of the combustion reaction in an enclosed device so as to provide sufficient residence time and mixing for complete combustion; and (3-24-22)~~

~~c. Control of the emission of the combustion products. (3-24-22)~~

~~21. Operator. The person(s) responsible for the overall operation of all or part of a site or facility. (3-24-22)~~

~~22. Owner. The person(s) who owns land or a portion of the land on which a site or facility is located. (3-24-22)~~

16. Pilot Project. A controlled trial period of a solid waste process or technology designed to test its feasibility, performance, potential benefits, and regulatory compliance before full-scale implementation at a facility. ( )

~~23~~17. **Point of Compliance**. ~~A~~ For purposes of this rule, a vertical surface located no more than one hundred fifty (150) yards hydraulically down gradient from the active portion of a facility or site, located at the facility boundary down gradient of the land area, or located at the point of diversion of an identified beneficial use within the site, whichever is the smallest distance from the active portion. ~~(3-24-22)~~( )

~~24~~18. **Processing Facility**. A facility that uses biological or chemical decomposition to prepare solid waste for reuse, including compost facilities excluding waste handling at transfer stations or recycling centers. (7-1-26)

~~25~~19. **Projected Waste Volume**. The total actual or potential solid waste volume measured in tons per day, cubic yards per day, or an equivalent measurement, proposed to be received or processed at a solid waste facility. (3-24-22)

2~~6~~0. **Pumpable Waste**. Wastes, including non-domestic septage, sludge, wastewater and non-municipal solid wastes, which are pumped from a holding area or container into a watertight tank truck or equivalent and transported for processing or disposal. (3-24-22)

~~27. **Qualified Professional**. Qualified professional means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in good standing and in compliance with applicable provisions of Chapter 12, Title 54, Idaho Code. (3-24-22)~~

2~~8~~1. **Recyclables**. Used, end, or waste products with useful properties that can be reused. (3-24-22)

2~~9~~2. **Recycling**. The reclamation of solid waste and its subsequent introduction into an industrial process by which the materials are transformed into a new product in such a manner that the original identity as a product is lost. (3-24-22)

~~30~~23. **Recycling Center**. A materials recovery facility that receives recyclables, then sorts, bales, loads, or physically alters the material and transports the commodities to markets. (3-24-22)

~~31~~24. **Regulated Waste**. As used in Subsections 010.01, 011.01, 012.03, and 013.03, "regulated waste" is liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials. (7-1-26)

~~32~~25. **Salvage**. The reclamation of solid waste at a disposal site. (3-24-22)

~~33~~26. **Scavenge**. The unauthorized removal of materials from a facility. (3-24-22)

~~34. **Septage**. A semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system. (3-24-22)~~

~~35~~27. **Site**. Any contiguous geographic area with one (1) or more facilities owned or operated by the same person used for any solid waste management activity, including, but not limited to, storage, transfer, processing, separation, incineration, treatment, salvaging, or disposal of solid waste. (3-24-22)

~~36~~28. **Site Size**. The sum in acres of all proposed or existing facilities. (3-24-22)

~~37~~29. **Speculative Accumulation**. Stockpiles of materials or recyclables to be processed for reuse or disposal when fifty percent (50%) of the material is not reused or disposed by the end of the following calendar year after the date of first receipt by the facility, and which may create a nuisance or public health impact. (7-1-26)

3~~8~~0. **Storm Water**. Accumulation of water from natural precipitation, including snow melt. (3-24-22)

3~~9~~1. **Surface Water**. 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, unless such waters are an integral part of the facility's operation for storm water control and or leachate management. (3-24-22)

~~40~~32. **Tipping Floor**. An area at a transfer station, processing facility, VSQG management facility or incinerator that receives and contains all waste materials. (3-24-22)

~~41~~33. **Toxic Leachate or Gas**. Concentrations of leachate or gas that will cause contamination, as defined by these rules, or that will exceed standards in IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (7-1-26)

~~42~~34. **Transfer Station**. A facility or portion thereof where solid wastes are transferred from a vehicle or container and subsequently transported off-site to another facility. A transfer station does not include an authorized rural drop-box or other facilities where persons are authorized to store individual waste for ultimate collection and disposal, or any other facility that stores solid waste generated at the facility for collection and disposal off-site. (3-24-22)

~~43~~35. **Wood or Mill Yard Debris Facility**. A facility that manages exclusively, solid wood, bark, or wood fiber generated from the process of manufacturing wood products that may include ash from the burning of wood waste in amounts and in conformity with the provisions of the Wood & Mill Yard Technical Guidance Manual, components of soil, rock, or moisture. (7-1-26)

~~44~~36. **Yard Waste**. Weeds, straw, leaves, grass clippings, brush, wood, and other natural, organic, materials typically derived from general landscape maintenance activities. (3-24-22)

~~45. Very Small Quantity Generator (VSQG) Management Facility. A facility or portion thereof where household hazardous waste or VSQG wastes are transferred from a vehicle or container and subsequently transported to another facility. A VSQG management facility does not include temporary drop off locations or other facilities where individuals or businesses are authorized to store waste for ultimate collection and disposal. (7-1-26)~~

(BREAK IN CONTINUITY OF SECTIONS)

032. TIER II AND TIER III APPLICATION AND PLAN REVIEW AND APPROVAL.

01. Application Submittal. The owner and operator must submit three (3) copies of each required application to the Department and may submit applications for siting, design, operation, or groundwater monitoring approval sequentially or concurrently. Application fees required by Section 996 are due at the time of submittal. ~~(7-1-26)~~( )

02. Preapplication Conference. The owner and operator may request that the Department convene a preapplication conference with any interested federal, state and local entities to discuss the approval procedures, application content, time tables for application processing, siting and design requirements. (7-1-26)

03. Application Review. (3-24-22)

a. On receipt of an application the Department will, within thirty (30) days, notify the owner and operator in writing whether the submission is complete and whether the application identifies an appropriate Tier level. The notice will identify any deficiencies in the application, and the information relied upon in making the determination, and will state that an applicant may submit additional information in the form of an amended application, withdraw the application or request a conference to discuss the Department's determination. (7-1-26)

b. Upon receipt of the Department's determination that a siting application is complete, the owner and operator shall publish a notice in a newspaper of general circulation as determined in Chapter 1, Title 60, Idaho Code, in the county and the immediate vicinity of the proposed facility and also provide notice to local government. The notice must include the name and location of the proposed facility, a general description of the proposed operations, the location where the application may be reviewed, and instructions directing the public to submit comments to the Department within thirty (30) days of the date of publication. The owner and operator must provide a copy of the published notice and notice to local government to the Department within five (5) business days of publication. (7-1-26)

c. The Department will approve, deny, or approve with conditions each application. Failure to issue a

decision within the stated time shall be deemed approval. Approval conditions will relate to protection of human health and the environment as provided in these rules. (7-1-26)

i. For a siting application, the Department will notify the owner and operator in writing of the Department's decision within thirty (30) days of the date of the close of the public comment period. The Department and the owner and operator may agree, in writing to a longer period of time for the Department's determination. Design, Operating and Groundwater Monitoring Applications will not be reviewed until the Siting Application is approved. (7-1-26)

ii. For the Design, Operating and Groundwater Monitoring applications, the Department will notify the owner and operator in writing of the Department's decision within sixty (60) days from the date the application is determined to be complete. (7-1-26)

d. If the Department denies an application, the written decision will state the basis for the denial, and the information relied upon in making the determination. (7-1-26)

04. Application Valid for Two Years. Unless otherwise stated in the Department's approval of the facility's application, the Department's approval will become invalid if the owner and operator fail to begin construction within two (2) years from the date of approval, or if after construction has begun, work is suspended for more than two (2) years. Owners and operators may apply for an extension provided that the written request is received by the Department no less than one (1) month prior to expiration of the approval. Within fifteen (15) days from Department receipt of extension request, the Department will approve the extension request or deny the extension request and state the basis for denial. (7-1-26)

(BREAK IN CONTINUITY OF SECTIONS)

062. -- 99~~3~~5. (RESERVED)

~~**994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.**~~
~~An application for a commercial solid waste siting license required by the Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code, (ISWFA) must be accompanied by a siting license fee in an amount established by these rules. The license fee will not exceed seven thousand five hundred dollars ($7,500) and must be submitted with the siting license application. (7-1-26)~~

~~**01. Commercial Solid Waste Siting License Fee Criteria**. The commercial solid waste siting license fee required by the ISWFA and these rules apply to commercial MSWLFs only and will be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. (7-1-26)~~

~~**02. Commercial Solid Waste Siting License Fee Scale**. The commercial solid waste siting license fee required by the ISWFA and these rules will be determined using the table below. The fee determined using the table below may then be adjusted by the Department if necessary to reflect the cost of the Department's review, considering the hydrogeological and atmospheric characteristics surrounding the site.~~

~~COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE PROJECTED SOLID WASTE VOLUME Tons per day (TPD)~~			
~~Site Size~~	~~Up to 20 TPD~~	~~20 to 100 TPD~~	~~More than 100 TPD~~
~~5 acres or less~~	~~$3,500~~	~~$4,500~~	~~$5,500~~
~~5 to 50 acres~~	~~$4,500~~	~~$5,500~~	~~$6,500~~
~~more than 50 acres~~	~~$5,500~~	~~$6,500~~	~~$7,500~~

~~(7-1-26)~~

~~**03. Notification of Adjustment of Fee**. Within thirty (30) days of receipt of the application and fee, the Department will notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant.~~ ~~(7-1-26)~~

~~**04. Expansion or Enlargement of a Commercial Solid Waste Facility**. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996, must submit a commercial solid waste siting license application and fee.~~ ~~(7-1-26)~~

~~**05. Commercial Solid Waste Siting License Fee Not Refundable**. The commercial solid waste siting license fee required by the ISWFA and these rules will not be refundable and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied.~~ ~~(7-1-26)~~

~~**995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.**~~
~~In addition to the contents of a siting license application as required in the ISWFA, these rules require the applicant to include in the application the following items:~~ ~~(7-1-26)~~

~~**01. Location**. A map indicating the location of the proposed commercial solid waste facility;~~ ~~(3-24-22)~~

~~**02. Copies of Application**. Ten (10) copies of the completed application; and~~ ~~(3-24-22)~~

~~**03. Application Format**. A copy of the application in a format prepared for photocopying.~~ ~~(3-24-22)~~

996. FEE SCHEDULE.
As required by the Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code, municipal solid waste disposal facilities must pay a fee per ton of solid waste disposed in state at a MSWLF or transferred out of state, in addition to an annual inspection fee and application fees. As required by Section 39-7424, Idaho Code, NMSW facilities must pay an annual inspection fee and application fees. The tables below outline the fees for each facility and application type. ( )

01. Co-located Facilities. These facilities will only be assessed one annual inspection fee based on the site classification. ( )

02. Table 1 - Annual Inspection Fee.

TYPE	FEE
Municipal and Tier III landfills	$4,000.00
Tier III Processing, Incinerators, NSWI, and all Tier II facilities	$2,000.00

( )

03. Table 2 - MSW and Tier III Landfill Application Fees.

Application Type	Fee
Siting (initial or major modification)	$2,000.00

Application Type	Fee
MSW Preliminary Design	$2,000.00
Design	$2,000.00
Groundwater Monitoring Plan or No Potential for Migration Demonstration	$2,000.00
Operations Plan	$2,000.00
Pilot Project	$500.00
Closure Plan	$1,500.00
Post-closure Plan	$500.00
Major Modifications	$1,000.00

( )

04. Table 3 - Tier II Facilities, NSWI, and all other Tier III Facilities.

APPLICATION TYPE	FEE
Siting	$1,000.00
Design	$2,000.00
Operations Plan	$1,500.00
Pilot Project	$500.00
Closure Plan	$500.00
Post-closure Care Plan	$500.00
Groundwater Monitoring Plan	$2,000.00
Corrective Action Plan	$1,000.00
Major Modification	$500.00

( )

05. Payment. ( )

a. Payment of the tipping fees and annual inspection fee are due to the Department in accordance with Section 39-7425, Idaho Code. ( )

b. Payment of the application fee is due at the time of submittal of an application. The Department will not review an application until the fee is paid. Failure of the applicant to pay the fee will void the start of the review timelines in Sections 39-7421 and 39-7422, Idaho Code for MSWLFs and Section 032 for NMSW facilities. ( )

996~~6~~7. -- 999. (RESERVED)

IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS

62.01.01 – IDAHO RULES OF ADMINISTRATIVE PROCEDURE

DOCKET NO. 62-0101-2601

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5206(2) and 67-5280(2)(c), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2026.

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:

General cleanup of the Idaho Rules of Administrative Procedure in accord with 8-year rules review, to align chapter with style guide and update/simplify language, as well as making experience-based updates to various rules.

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

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

No fiscal impact on the state general fund will occur as a result of these changes.

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 June 3, 2026 Idaho Administrative Bulletin, Vol. 26-6, pp. 46-47.

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 Chief Administrative Law Judge Bryan Nickels at 208-605-4300.

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 28, 2026.

DATED this 21st day of August, 2026.

Bryan Nickels
Chief Administrative Law Judge
Office of Administrative Hearings
350 N. 9th St., Suite 300 (physical and mailing)
Boise, ID 83702
208-605-4300
general@oah.idaho.gov
https://oah.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 62-0101-2601
(Only Those Sections With Amendments Are Shown.)

62.01.01 – IDAHO RULES OF ADMINISTRATIVE PROCEDURE

SUBCHAPTER A – GENERAL PROVISIONS AND DEFINITIONS ~~(RULES 0-99)~~
Rules 0 Through 49 – General Provisions

000. LEGAL AUTHORITY ~~(RULE 0)~~.
This chapter is adopted under the legal authority of Section 67-5206, Idaho Code. (7-1-24)

001. TITLE AND SCOPE ~~(RULE 1)~~.

01. Title. This chapter is titled "Idaho Rules of Administrative Procedure." (7-1-24)

02. Scope. Every state agency that conducts "contested cases" as defined by Section 67-5240, Idaho Code, must use these rules unless otherwise required by governing federal or state statute, rule, regulation, or binding state or federal judicial decisional authority. (7-1-24)

002. DEFINITIONS ~~(RULE 2)~~.
All terms used in this Chapter shall be interpreted in accordance with the definitions set forth in the Idaho Administrative Procedure Act ("APA") within Section 67-5201, Idaho Code, and as otherwise defined below: (7-1-24)

01. Agency. In addition to the definition in Section 67-5201(4), Idaho Code, reference to the "agency" in these rules includes the agency director, board or commission, agency secretary, presiding officer appointed by the agency, administrative law judge or contract hearing officer assigned by the Office of Administrative Hearings to serve as a presiding officer in a contested case proceeding, or other such hearing officer, as context requires. In turn, reference to the "agency head" means the agency director, board or commission, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders. (7-1-26)

02. Interlocutory Order. Any order issued by a presiding officer or agency head ~~which is neither~~ other than a preliminary order, ~~a~~ recommended order, ~~n~~or ~~a~~ final order. ~~(7-1-24)~~( )

03. Service or Serving. The agency's or a party's delivery or distribution of official documents in a legally sufficient manner in a contested case proceeding to the parties to that proceeding and, if applicable, to any other persons required by statute, rule, order, or notice to receive official documents. (7-1-24)

003. ABBREVIATIONS ~~(RULE 3)~~.
These rules use the following abbreviations: (7-1-24)

01. ADA. ADA means the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, et seq. (7-1-24)

02. ADR. ADR means alternative dispute resolution, which includes, but is not limited to, mediation, arbitration, negotiation, conciliation, collaboration, mini-trial, and peacemaking. (7-1-24)

~~**03. APA**. APA means the Idaho Administrative Procedure Act, Chapter 52, Title 67, Idaho Code.~~ ~~(7-1-24)~~

0~~4~~3. IRAP. IRAP means these rules, the Idaho Rules of Administrative Procedure. (7-1-24)

004. LIBERAL CONSTRUCTION ~~(RULE 4)~~.
The rules in this chapter will be liberally construed to secure the just, speedy, and inexpensive determination of contested case proceedings. Unless required by statute or otherwise permitted by rule, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings, but may be used to inform decisions by a presiding officer. (7-1-26)

005. COMMUNICATIONS WITH AGENCY ~~(RULE 5)~~.
All communications that are intended to be part of an official record for a decision in a contested case must be filed with the presiding officer. Unless otherwise provided by statute, rule, order, or notice, documents are considered filed when received by the presiding officer, not when mailed or otherwise transmitted. (7-1-24)

006. IDENTIFICATION OF COMMUNICATIONS ~~(RULE 6)~~.
Communications regarding a given proceeding should refer to that proceeding's case caption and case number. (7-1-24)

007. COMPUTATION OF TIME ~~(RULE 7)~~.
In computing any period of time set by these rules, the day of the event from which the period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday. (7-1-24)

008. FEES AND REMITTANCES ~~(RULE 8)~~.
Fees and remittances to the agency, including cost awards, shall be paid in the manner directed by the agency. (7-1-24)

009. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT REQUIREMENTS ~~(RULE 9)~~.
All conferences and hearings must be held by means or in facilities meeting the accessibility requirements of the ADA, and any notice of conference or hearing must inform the parties that the conference or hearing will be conducted in compliance with the accessibility requirements of the ADA. Any notice of conference or hearing must inform the parties and other persons notified that if they require accessibility accommodation pursuant to the ADA, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the conference or hearing that the request must be made. (7-1-24)

010. PRACTICE NOT COVERED BY STATUTE OR RULES ~~(RULE 10)~~.
In cases where no provision is made by statute or by these rules, proceedings in contested cases to which these rules apply shall be in accordance with the practice usually followed in such or similar contested cases, or as may be prescribed by the hearing officer or stipulated to by the parties. (7-1-24)

011. SIGNATURES.

01. Signature Required. All filings shall be physically or electronically signed and dated by the party or by the party's representative. The presiding officer must strike an unsigned paper unless the omission is promptly corrected after being called to the party's or their representative's attention. (____)

02. Certification. A party's or representative's signature shall constitute a certification that the individual has read the document, knows the contents thereof and to the best of their knowledge believes that such statements are true, that it is not interposed for delay and that, if the filing has been signed by a representative, they have full power and authority to do so. If a presiding officer determines that a party or their representative has violated this rule, that party and/or their representative may be sanctioned for misconduct per Section 231 herein. (____)

01~~1~~2. – 099. (RESERVED)

SUBCHAPTER B – PROSECUTIONS AND INFORMAL RESOLUTIONS ~~(RULES 100-199)~~
Rules 100 Through 149 – Agency As Prosecutor And Advisor

100. CONTRAST BETWEEN AGENCY'S PROSECUTORIAL / INVESTIGATIVE AND ADJUDICATORY FUNCTIONS ~~(RULE 100)~~.
When statute assigns to an agency both (1) the authority to initiate petitions or to investigate petitions made by the public, and (2) the authority to decide the merits of petitions, the agency is required to perform both of those functions and shall follow the following procedures within ~~Rules~~ Sections 100 through 103 ~~applicable to the agency head, agency attorneys, agency staff, and hearing officers in processing these petitions or responding to citizen inquiries. As used within Rules 100 through 103, the term "agency head" shall include any person designated by the agency head to exercise, in whole or in part, the ultimate legal authority vested in the agency~~. ~~(7-1-24)~~( )

01. Prosecutorial/Investigative Function. The prosecutorial/investigative function ~~can be~~ is performed exclusively by agency attorneys and agency staff. When required or allowed by statute, the agency head may participate in or supervise investigations preceding the issuance of a petition and may supervise the agency attorneys and agency staff conducting the prosecution of the petition ~~issued by the agency head~~, but the agency head shall not participate in the prosecution of a petition at a formal contested case hearing ~~for a petition issued by the agency~~ unless the agency head does not participate in the adjudicatory function. ~~(7-1-24)~~( )

02. Adjudicatory Function. The adjudicatory function is performed by the agency head and/or a hearing officer. The adjudicatory function includes decision-making in an adjudicatory role or capacity such as: deciding whether to issue a petition upon ~~the basis of allegations before the agency when the decision to issue the petition is made by an agency head acting in an adjudicatory capacity, i.e., when presented~~ formal presentment by agency staff ~~in a formal setting with the question whether a petition shall be issued~~; deciding whether to accept a consent order or other settlement after a petition is issued ~~when the decision to accept a consent order or other settlement is made by an agency head acting in an adjudicatory capacity~~; and deciding the merits of a petition following presentation of evidence in formal contested case proceedings. ~~(7-1-24)~~( )

101. PUBLIC INQUIRIES ABOUT OR RECOMMENDATIONS FOR AGENCY ISSUANCE OF A PETITION ~~(RULE 101)~~.

01. Response to Public Inquiry. When the public contacts an agency head, an agency attorney, or agency staff to ~~inquire whether~~ request that a petition should be issued ~~by an agency or to recommend that a petition be issued~~, the agency ~~head~~ representative may: explain the agency's procedures.; ~~explain the agency's~~ jurisdiction, ~~or~~ and legal authority ~~(including the statutes or rules administered by the agency); and~~. The agency representative may also direct the public to appropriate ~~staff~~ agency personnel who can provide investigatory assistance or ~~who can~~ advise them how to pursue a petition before the agency. Additionally, response can be provided by specific agency roles as follows: ~~(7-1-24)~~( )

a. The Agency Head. When the agency head issues petitions, the agency head may also discuss whether given allegations would, in the agency head's opinion, warrant the issuance of a petition or warrant direction to staff to pursue further investigation. No statement of the agency head in response to a public inquiry constitutes a finding of fact or other decision on the underlying matter. (7-1-24)

b. The Agency Attorney. An agency attorney assigned to a prosecutorial/investigative role may also discuss whether given allegations would, in the attorney's opinion, warrant the issuance of a petition or warrant direction to staff to pursue further investigation. The agency is not bound by the attorney's advice or recommendations, and the attorney should notify the public that the agency is not obligated to follow the attorney's advice or recommendations. (7-1-24)

02. The Agency Staff. Agency staff may also express an opinion whether given allegations would, in the agency staff's opinion, warrant the issuance of a petition or warrant agency staff's further investigation. The agency is not bound by the agency staff's advice or recommendations, and the agency staff should notify the public that the agency is not obligated to follow the agency staff's advice or recommendations. (7-1-24)

03. Presiding Officers. When the public contacts a presiding officer to inquire whether a petition should be issued by an agency or to recommend that a petition be issued, the presiding officer should not discuss the matter, but should refer the member of the public to other agency personnel. (7-1-24)

~~**04. Office of Administrative Hearings**. When the public contacts the Office of Administrative~~

~~Hearings to inquire whether a petition should be issued by an agency or to recommend that a petition be issued, Office of Administrative Hearings staff should not discuss the matter, but should refer the member of the public to other agency personnel.~~ ~~(7-1-24)~~

102. AGENCY PROCEDURES AFTER ISSUANCE OF A PETITION ~~(RULE 102)~~.

01. The Agency Head. (7-1-24)

a. Prohibited Contacts--Allowable Managerial Reporting. Once a petition has issued, the agency head shall not discuss the substance of the petition ex parte with any representative of any party, agency attorneys, or agency staff involved in the prosecution or investigation of the petition, or an assigned hearing officer, unless authorized or required by statute. The agency head may request periodic progress reporting on staff preparation from a~~n executive director or other~~ staff member in charge. As required to perform statutory supervisory duties, the agency head may also approve or disapprove expenditures associated with the prosecution, authorize retention of experts or outside counsel for the prosecution, address policy issues that may affect the prosecution, and otherwise discharge the agency head's statutory management and supervisory duties. ~~(7-1-24)~~( )

b. Allowed Contacts. The agency head may discuss the substance of the petition with agency attorneys and agency staff who are not involved in the prosecution or investigation of the petition. When one or more members of the agency head sits as a presiding officer to hear the contested case, any other member of the agency head not participating in the prosecution and not supervising prosecutorial/investigative personnel may discuss the substance of the petition with that presiding officer. (7-1-24)

02. The Agency Attorney. (7-1-24)

a. Prosecutorial/Investigative Attorneys. Except as to allowed contacts with the agency head, no agency attorney involved in the investigation or prosecution of a petition shall discuss the substance of the petition ex parte with the agency head, the hearing officer assigned to hear the petition, or with any agency attorney assigned to advise or assist the agency head acting as a presiding officer assigned to hear the petition. (7-1-24)

b. Advisory Attorneys. Except as to allowed contacts with the agency head, no agency attorney assigned to advise or assist the agency head shall discuss the substance of the petition ex parte with any representative of any party, agency attorneys, or agency staff involved in the prosecution or investigation of the petition, or an assigned hearing officer. An agency attorney assigned to advise or assist the agency head acting as a presiding officer may discuss the substance of the petition with that agency head. (7-1-24)

03. The Agency Staff. (7-1-24)

a. Prosecutorial/Investigative Staff. Except as to allowed contacts with the agency head, no member of the agency staff involved in the investigation or prosecution of the petition shall discuss the substance of the petition ex parte with the agency head, any agency attorney assigned to advise or assist the agency head acting as a presiding officer assigned to hear the petition, or an assigned hearing officer. (7-1-24)

b. Advisory Staff. Except as to allowed contacts with the agency head, no agency staff assigned to advise or assist the agency head shall discuss the substance of the petition ex parte with any representative of any party or with agency attorneys or agency staff involved in the prosecution or investigation of the petition. Agency staff assigned to advise or assist an agency head acting as a presiding officer may discuss the substance of the petition with the agency head. (7-1-24)

04. Presiding Officers. (7-1-24)

a. Agency Heads. Agency heads acting as a presiding officer may discuss the substance of a petition with attorneys of the agency assigned to advise or assist the agency head acting as a presiding officer. (7-1-24)

b. Assigned Presiding Officers. Except as to allowed contacts with the agency head, no assigned presiding officer shall discuss the substance of a petition ex parte with an agency head, any representative of any party, or with agency attorneys or agency staff involved in the prosecution or investigation of a petition. (7-1-24)

c. Communications With Other Hearing Officers. Any presiding officer may discuss the substance of a petition with any other hearing officer not assigned to the matter, including hearing officers within the Office of Administrative Hearings, provided that: (7-1-24)

i. The presiding officer and the other hearing officer make reasonable efforts to avoid discussing factual information that is not a part of the record; and (7-1-24)

ii. The presiding officer does not abrogate their responsibility to personally decide the matter. (7-1-24)

d. Procedural matters. Presiding officers may also discuss, with any other hearing officer not assigned to the matter, including hearing officers within the Office of Administrative Hearings, any procedural matter related to a proceeding, including interpretation and application of the APA and/or the IRAP. (7-1-24)

103. ASSISTANCE WITH AGENCY HEAD'S CONSIDERATION OF RECOMMENDED OR PRELIMINARY ORDER ~~(RULE 103)~~.

01. The Agency Head. In considering a presiding officer's recommended or preliminary order, the agency head issuing a final order may consult with an agency attorney assigned to advise or assist the agency head and with agency staff who did not participate in the investigation or prosecution of the petition. The agency head shall not discuss the substance of the petition ex parte with any representative of any party, agency attorneys or agency staff involved in the prosecution or investigation of the petition, or the presiding officer. (7-1-24)

02. The Agency Attorney. (7-1-24)

a. Prosecutorial/Investigative Attorneys. No agency attorney involved in the investigation or prosecution of a petition shall consult with the agency head issuing a final order considering a presiding officer's recommended or preliminary order. An agency attorney who was involved in the investigation or prosecution of the petition may attend public meetings of the agency head that consider petitions and may respond to questions from the agency head, so long as the meetings have been noticed to all parties and all parties have the same opportunity to respond to questions from the agency head as the agency's prosecutorial/investigative attorneys. (7-1-24)

b. Advisory Attorneys. An agency attorney assigned to advise or assist the agency head in consideration of the petition may consult with the agency head in preparation for or while the agency head is considering a presiding officer's recommended or preliminary order. (7-1-24)

03. The Agency Staff. (7-1-24)

a. Prosecutorial/Investigative Staff. No member of the agency staff involved in the investigation or prosecution of the petition shall consult with the agency head in their consideration of a presiding officer's recommended order or preliminary order. (7-1-24)

b. Advisory Staff. Any member of the agency staff assigned to advise or assist the agency head may consult with the agency head in its consideration of a presiding officer's recommended order or preliminary order at the agency head's direction. (7-1-24)

c. Presiding Officers. No presiding officer shall consult with any person regarding the agency head's consideration of the presiding officer's recommended or preliminary order. (7-1-24)

104 – 149. (RESERVED)

Rules 150 through 199 – Informal Dispositions

150. INFORMAL DISPOSITIONS, GENERALLY ~~(RULE 150)~~.
Informal dispositions may be conducted in writing, by telephone or video, or in person, and may include individual contacts by or with the agency staff asking for information, advice, or assistance from the agency staff, or proposing

informal resolution of formal disputes under the law administered by the agency. At any time following the presentment of an informal disposition to the presiding officer, the presiding officer may, including at the time of hearing, request additional information needed by the presiding officer to determine whether to render a decision in the contested case proceeding. (7-1-24)

151. ALTERNATIVE DISPUTE RESOLUTION OF CONTESTED CASES ~~(RULE 151)~~.
If informal disposition cannot be reached by the parties, the use of ADR at any time before or after a contested case has been initiated is encouraged. A presiding officer may inquire as to the status of ADR or otherwise encourage parties to undertake ADR, but a presiding officer may not order parties to undertake ADR without the agreement of all parties. No party may be penalized or sanctioned for failing or refusing to participate in ADR, except where a party refuses or fails to participate in mandatory or binding ADR that the parties have voluntarily agreed to. (7-1-24)

152. NEUTRALS ~~(RULE 152)~~.
When ADR is used for all or a portion of a contested case, or prior to the initiation of a contested case, an agency may provide a neutral, at the agency's cost, to assist the parties in resolving their disputed issues. The neutral may be any individual agreed upon by the parties, but must be someone with no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. If the parties are unable to agree upon~~, or identify,~~ a neutral ~~to provide ADR services~~, the agency shall ~~make a~~ request ~~to~~ the Chief Administrative Law Judge of the Office of Administrative Hearings ~~for the selection and provision of~~ to assign a neutral ~~by the Chief Administrative Law Judge~~. ~~(7-1-26)~~( )

153. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS ~~(RULE 153)~~.
Negotiations regarding a potential consent order or other settlement made prior to or during a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made, and all other aspects of negotiation (except agreements reached) in any such negotiations are not part of the record. (7-1-24)

154. PROCEDURE FOR NOTICE OF INFORMAL DISPOSITION OCCURRING PRIOR TO A CONTESTED CASE PROCEEDING ~~(RULE 154)~~.
The terms of any informal disposition, including, but not limited to, any stipulation regarding agreement as to facts, evidence, or issues in a contested case, which are reached prior to the initiation of a contested case proceeding shall be disclosed by the parties in full to the presiding officer no later than the initial scheduling conference, unless otherwise directed by the presiding officer. (7-1-24)

155. STIPULATIONS REGARDING FACTS ~~(RULE 155)~~.
Parties may stipulate ~~among themselves~~ to any fact at issue in a contested case by written statement filed with the presiding officer or presented by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. ~~The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated.~~ The presiding officer is not bound to adopt a stipulation of the parties, but may do so. If adopted, the presiding officer may regard a stipulation as evidence, or may require additional proof by evidence of the facts stipulated. If the presiding officer rejects a stipulation, they will do so before issuing their order, and will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. ~~(7-1-24)~~( )

156. CONSENT ORDERS AND OTHER SETTLEMENTS ~~(RULE 156)~~.
This rule sets forth procedures to be followed when a consent order or other settlement is negotiated before or after the initiation of a contested case proceeding. (7-1-24)

01. Negotiations. Persons who participate in negotiations regarding a consent order or other settlement prior to the initiation of a contested case proceeding are not permitted to serve as a presiding officer in any subsequent contested case proceeding regarding the same matter. Once a contested case proceeding has been initiated, no presiding officer may thereafter participate in negotiations regarding a consent order or other settlement. (7-1-24)

02. Presentation of Consent Order or Other Settlement to Agency Head. When the consent order provides, or the persons signing the consent order contemplate, that the consent order must be presented to the agency head for approval, the consent order may be presented to the agency head by representatives of any party, unless the agreement provides to the contrary. Any consent order presented to the agency head must be served on all parties and

the presiding officer, if any. The agency head may accept or reject the consent order, indicate how the consent order must be modified to be acceptable, or inform the parties what further information is required for the agency head's consideration of the consent order. When a consent order is rejected, no matter recited in the rejected consent order may be used as an admission against a party in any later proceeding before the agency, and any such matter must be proven by evidence independent of the consent order. (7-1-24)

03. Consideration Of Consent Orders And Other Settlements By Presiding Officers. Consent orders and other settlements must be reviewed under this rule. When a consent order or other settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the agreement to consider the agreement. For example, the presiding officer may summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties. On the other hand, when one or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the agreement and whether acceptance of the agreement is consistent with the agency's charge under the law. (7-1-24)

04. Suspension of Deadlines. Unless otherwise provided by law, the presiding officer may suspend all contested case deadlines, including the hearing date, during the consideration of a proposed consent order or other settlement. (7-1-24)

157. INQUIRY ABOUT NEGOTIATIONS ~~(RULE 157)~~.
Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (7-1-24)

158. ~~BURDENS OF PROOF (RULE 158)~~COMPLIANCE WITH LAW AND DEVELOPMENT OF RECORD.
Proponents of a proposed consent order or other settlement agreement carry the burden of showing that the consent order or other settlement agreement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed consent order or other settlement agreement as a condition of accepting or rejecting the consent order or other settlement agreement. (7-1-24)

159. CONSENT ORDERS AND SETTLEMENTS NOT BINDING ~~(RULE 159)~~.
The presiding officer is not bound by consent orders or other settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (7-1-24)

160. NEGOTIATIONS DO NOT EXHAUST ADMINISTRATIVE REMEDIES ~~(RULE 160)~~.
Negotiations regarding potential consent orders or other settlement agreements do not substitute for formal proceedings and do not exhaust administrative remedies, and any such negotiations are conducted without prejudice to the right of the parties to present the matter formally to the agency as a contested case. (7-1-24)

161. – 199. (RESERVED)

SUBCHAPTER C – CONTESTED CASE PARTICIPANTS ~~(RULES 200-299)~~
Rules 200 Through 224 – Parties

200. PARTIES TO CONTESTED CASES LISTED ~~(RULE 200)~~.
Unless otherwise labeled by statute or by agency practice, parties to contested cases before the agency are called petitioners, respondents, or intervenors. On reconsideration or appeal within the agency, parties are called by their original titles. (7-1-24)

201. PETITIONERS ~~(RULE 201)~~.
Persons who seek to modify, amend, or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case, or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners." (7-1-24)

202. RESPONDENTS ~~(RULE 202)~~.
Persons against whom petitions or complaints are filed or about whom investigations are initiated are called "respondents." (7-1-24)

203. INTERVENORS ~~(RULE 203)~~.
Persons, other than petitioners and respondents, who are permitted to participate as parties are called "intervenors." (7-1-24)

204. RIGHTS OF PARTIES AND OF AGENCY STAFF ~~(RULE 204)~~.
All parties, including agency staff, may appear at any hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments, including submitting any written filings which are required or which are requested by the presiding officer. (7-1-24)

205. WITHDRAWAL AND SUBSTITUTION OF PARTIES ~~(RULE 205)~~.
Any party may withdraw from a proceeding upon notice to the presiding officer in writing or at hearing. Upon withdrawal of a party, the presiding officer shall determine if and how the contested case proceeding will continue. A presiding officer conducting the hearing may default the withdrawing party, may proceed with the hearing on the matter, or may take such other action consistent with law. A presiding officer may, upon motion, permit the substitution of a party as justice requires. (7-1-24)

206. PERSONS NOT PARTIES – INTERESTED PERSONS ~~(RULE 206)~~.
Unless otherwise provided by statute or rule, persons other than the persons named in Rules 200 through 203 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In proceedings in which persons other than a petitioner, respondent, or intervenor would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called "interested persons." Interested persons may become intervenors or public witnesses. The agency must serve notice of such proceedings on all interested persons. If not previously identified by the agency, the presiding officer may identify and serve potentially interested persons within their discretion or otherwise direct the agency to identify and serve such persons. (7-1-26)

207. PERSONS NOT PARTIES – PUBLIC WITNESSES ~~(RULE 207)~~.
Persons not parties and not called by a party who may be permitted to testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to a presiding officer's determination of hearing procedure and admissibility of evidence, public witnesses have a right to offer evidence at hearing through written or oral statements and exhibits, except that public witnesses offering expert opinions at hearing or detailed analyses or detailed exhibits must comply with these rules and any order of the presiding officer regarding the prehearing disclosure of expert testimony. (7-1-24)

208. – 224. (RESERVED)

Rules 225 through 249 – Party Representatives

225. INITIAL PLEADING – LISTING OF, AND SERVICE UPON, REPRESENTATIVES ~~(RULE 225)~~.
The initial pleading of each party at the formal stage of a contested case must name the party's representative for service and state the representative's e-mail and mailing address for purposes of receipt of all official documents. ~~Unless authorized by order of the agency, no more than two (2) representatives for service of documents may be listed in an initial pleading.~~ Service of documents on the named representative is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the first person signing the pleading will be considered the party's representative. ~~(7-1-24)~~( )

226. TAKING OF APPEARANCES – PARTICIPATION BY AGENCY STAFF – USE OF AGENCY REPORT OR RECOMMENDATION ~~(RULE 226)~~.
The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff will be considered or used in reaching a decision, at the timely request

of any party, the agency staff must appear at any hearing and be available for cross-examination and participate in the hearing in the same manner as a party. (7-1-24)

227. REPRESENTATION OF PARTIES ~~(RULE 227)~~.
Parties may be represented by an attorney throughout the proceedings in a contested case, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. Persons appearing in contested case proceedings in a representative capacity must conform to the standards of professional conduct required of attorneys before the courts of Idaho. If any representative fails to conform to these standards, the presiding officer may exclude the person from the proceeding. (7-1-24)

228. ATTORNEY REPRESENTATIVES ~~(RULE 228)~~.
Attorneys representing a party in a contested case proceeding must have an active license to practice law in the state of Idaho. Attorneys not licensed in Idaho but who are licensed in one or more other states may request admission to the proceeding on a pro hac vice status by the presiding officer consistent with Idaho State Bar Commission Rule 227(i) "Agency Admission." (7-1-24)

229. SUBSTITUTION OF REPRESENTATIVE ~~(RULE 229)~~.
A party's representative may be changed and a new representative may be substituted by notice to the presiding officer and to all other parties, which substitution will be liberally allowed so long as the proceedings are not unreasonably delayed. The presiding officer may permit substitution of representatives at the time of hearing solely in the presiding officer's discretion. (7-1-24)

230. WITHDRAWAL OF REPRESENTATIVE ~~(RULE 230)~~.
Persons representing a party who wish to withdraw their representation must immediately file in writing a notice of withdrawal of representation to the presiding officer and serve that notice on the party represented and all other parties. If a party's representative withdraws, the presiding officer may reset deadlines and/or the hearing as long as the proceedings are not unreasonably delayed. (7-1-24)

231. CONDUCT REQUIRED – SANCTIONS FOR MISCONDUCT ~~(RULE 231)~~.
Parties and their representatives are expected to conduct themselves in a civil and nondisruptive manner during contested case proceedings. Persons appearing in contested case proceedings in a representative capacity are further expected to conform to the standards of civility in professional conduct expected of attorneys before the courts of Idaho. The presiding officer may, in their discretion, reprimand or exclude from any hearing any person who disrupts the hearing or engages in improper conduct. For disruptive or improper conduct made in the course of a contested case proceeding outside of hearings, the presiding officer may take any action not inconsistent with these rules, the APA, and any other applicable statute or rule to maintain order during the course of a contested case proceeding and to ensure an expeditious, fair, and impartial proceeding. (7-1-24)

232. – 249. (RESERVED)

Rules 250 through 299 – Hearing Officers and Presiding Officers

250. APPOINTMENT OF HEARING OFFICERS ~~(RULE 250)~~.
A hearing officer is a presiding officer, other than the agency head, in a contested case proceeding. Subject to governing statutes and rules, a hearing officer may be appointed by an agency head. (7-1-24)

01. Office of Administrative Hearings. Where required by statute or ~~rule, or where an agency head~~ otherwise ~~requests a hearing officer as~~ permitted by ~~statute or rule~~ Idaho Code section 67-5280, an agency head ~~will~~ shall refer a hearing officer appointment to the Office of Administrative Hearings. Upon receipt and acceptance of the referral, the Chief Administrative Law Judge or their designee shall appoint a hearing officer of their own selection by issuing a Notice of Appointment to all parties to the contested case proceeding. ~~(7-1-26)~~( )

02. Other Hearing Officers. Hearing officers not appointed through the Office of Administrative Hearings may be employees of the agency or independent contractors, and may (but need not) be attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. (7-1-24)

251. DISQUALIFICATION ~~(RULE 251)~~.

01. Petitions – Determination. Upon any petition to disqualify a presiding officer, the presiding officer may request additional briefing or argument from any party to the contested case proceeding, or may otherwise immediately rule upon the petition on its face without additional briefing or argument. (7-1-24)

02. Timeline. A petition to disqualify a presiding officer must be filed within fourteen (14) days of the discovery of the grounds for disqualification. (7-1-26)

03. Voluntary Disqualification. A presiding officer in a contested case may make a voluntary disqualification without stating any reason therefor. (7-1-24)

252. SCOPE OF AUTHORITY OF PRESIDING OFFICERS ~~(RULE 252)~~.

01. Standard Scope of Authority. Unless otherwise limited by statute, rule, or in the appointment by the agency, presiding officers have the ~~following standard scope of~~ authority to: ~~(7-1-24)~~( )

a. ~~Authority to s~~Schedule cases ~~assigned to the presiding officer~~, including ~~authority to issue~~ issuance of notices of prehearing conference and of hearing, as appropriate; ~~(7-1-24)~~( )

b. ~~Authority to schedule~~Authorize and compel discovery, ~~when discovery is authorized before the agency,~~ and to require advance filing of expert testimony, when ~~authorized before the agency~~ permitted; ~~(7-1-24)~~( )

c. ~~Authority to p~~Preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and ~~(7-1-24)~~( )

d. ~~Authority to i~~Issue orders necessary to the case, including a written decision ~~of the presiding officer~~, including a narrative of the proceedings, ~~before the presiding officer and~~ findings of fact, conclusions of law, and recommended, ~~or~~ preliminary, or, where authorized, final orders ~~by the presiding officer~~. ~~(7-1-24)~~( )

02. Change in Scope of Authority. Except as prohibited by statute or rule, at any time prior to hearing, a presiding officer's scope of authority in a proceeding may be increased or limited by written directive of the agency head. Such change in the scope of authority shall be made on the agency head's initiative alone, and no motion to the presiding officer requesting a change in the scope of their authority will be permitted. (7-1-24)

253. CONSTITUTIONAL CHALLENGES TO STATUTES AND RULES ~~(RULE 253)~~.
A presiding officer in a contested case has no authority to declare a statute or rule unconstitutional absent judicial authority addressing the issue. If a state or federal court with binding authority in the state of Idaho has declared a statute or rule unconstitutional, ~~,~~ or ~~if a federal authority~~ has preempted a statute or rule, ~~,~~ and that same statute or rule, or a substantively identical one, is challenged in a proceeding before the presiding officer, then the presiding officer must apply the court's precedent ~~or the federal preemption~~ and decide the matter accordingly. ~~(7-1-26)~~( )

254. OTHER CHALLENGES TO RULES ~~(RULE 254)~~.
An agency head, acting either as a presiding officer or in issuing a final order, may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. A presiding officer, other than an agency head, does not have the authority to consider and decide such issues except upon express written grant of authority by the agency head. (7-1-26)

255. EX PARTE COMMUNICATIONS ~~(RULE 255)~~.

01. Substantive Communications. When a presiding officer receives or participates in an ex parte communication regarding any substantive issue from a party or party representative during a contested case, the presiding officer shall place a copy of the communication, or a detailed summary thereof, in the file for the case. Additionally, the copy or summary of the communication shall also be distributed to all parties of record. Upon request of any party or upon the presiding officer's own motion, the presiding officer shall permit either a hearing or written response by any party not involved in the communication, to allow those parties an opportunity to participate

in the communication. Substantive communications are part of the agency record. (7-1-24)

02. Procedural Communications. The presiding officer may communicate ex parte, orally or in writing, with a party concerning procedural matters (e.g., scheduling). When reasonably feasible, a written confirmation of such communication should be sent to all parties to the proceeding, with a copy placed in the file of the case. Procedural communications are not part of the agency record, except as ordered by the presiding officer in their discretion, either on their own motion or a motion by any party. (7-1-24)

03. Communications With The General Public. Ex parte communications from members of the general public who are neither parties, interested persons, nor witnesses are not required to be reported by this rule. However, any communications with such persons shall be disclosed to all parties to the proceeding, in writing with a copy to the file, in the event that those persons become parties, interested persons, or witnesses to the proceeding. Hearing or written response shall be permitted in the same manner as with any other substantive ex parte communication. (7-1-24)

256. – 299. (RESERVED)

SUBCHAPTER D – PLEADINGS AND MOTIONS ~~(RULES 300-399)~~
Rules 300 Through 324 – Pleadings

300. PLEADINGS – NAMING ~~(RULE 300)~~.
Except as otherwise named by statute, rule, or established agency practice, pleadings initiating contested cases may be called "petitions," "applications," "protests," or "complaints," and responding pleadings may be called "answers." Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party may adopt or join any other party's pleading. (7-1-24)

301. PLEADINGS – CONSTRUCTION ~~(RULE 301)~~.
Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion. An exhibit to a pleading is a part of the pleading for all purposes. (7-1-24)

302. PLEADINGS – FORM AND CONTENTS ~~(RULE 302)~~.

01. Form. All pleadings, except those filed on agency forms, submitted by a party and intended to be part of an agency record must be in writing and be submitted as follows unless otherwise directed by the agency or presiding officer: (7-1-24)

a. Caption. Pleadings must include the case caption, case number, and title of the document. Documents complying with this rule will be in the following form:

Name of Party/Representative
Mailing Address of Party/Representative
Street Address of Party/Representative (if different)
Telephone Number of Representative
E-mail Address of Representative
Attorney/Representative for [Name of Party] (if needed)

BEFORE THE [NAME OF AGENCY]

[Title of Proceeding] CASE NO. [Case number assigned by agency]

[TITLE OF DOCUMENT]

(7-1-24)

b. Party Information. Pleadings must include, in the upper left corner of the first page, the name, mailing and street address, telephone number, and e-mail address of the person filing the document; (7-1-24)

c. Formatting. Text should be double-spaced, but quotations more than two (2) lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins should be at least one (1) inch on all four (4) sides. Text should be in a Century family or a sans serif font in a twelve (12)-point or fourteen (14)-point font size. ~~(7-1-24)~~( )

d. Electronic filings. Pleadings filed electronically should be in a commonly-used format, such as in.PDF or.DOCX. (7-1-24)

e. Paper filings. Pleadings filed in paper form should be on 8 1⁄2 by 11-inch paper, single-sided and numbered. (7-1-24)

02. Content. Pleadings should: (7-1-24)

a. Identify the party making the pleading, and the party to whom the pleading is directed; (7-1-24)

b. Fully state all facts, contentions, claims, and defenses in numbered paragraphs, each limited to a single set of circumstances, where practicable; (7-1-24)

c. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based; (7-1-24)

d. State the right, license, award, or authority sought, contested, or at issue; and (7-1-24)

e. The relief sought, if any. (7-1-24)

303. ANSWERS – SPECIFIC REQUIREMENTS ~~(RULE 303)~~.

01. Time for filing. An answer to a pleading initiating a contested case must be filed and served on all parties of record within twenty-one (21) days after service of the pleading, unless a different deadline is provided by order or notice. (7-1-24)

02. Content. An answer must admit or deny each material allegation of the pleading initiating the contested case. Any material allegation not specifically admitted shall be considered denied. Matters alleged by cross-petition, cross-complaint, or affirmative defense must be separately stated and numbered. (7-1-24)

03. Motions in Lieu of Answer. A motion filed in lieu of an answer in response to a pleading initiating a contested case, such as a motion to dismiss, strike, or for clarification, must be made within the time to answer. Any such motion suspends the party's obligation to file an answer until such time as the presiding officer directs that an answer be filed. (7-1-24)

04. Failure to File an Answer or Motion. If a party fails to file an answer or a motion under this rule in response to a pleading, the presiding officer may issue a notice of default against the respondent pursuant to these rules. (7-1-24)

05. Motions Directed to the Answer. A motion directed to an answer must be filed within fourteen (14) days after service of the answer. (7-1-24)

304. DEFECTIVE, INSUFFICIENT, OR LATE PLEADINGS ~~(RULE 304)~~.
Defective, insufficient, or late pleadings may be returned, dismissed, or rejected. (7-1-24)

305. AMENDMENTS TO PLEADINGS ~~(RULE 305)~~.
The presiding officer may allow any pleading to be amended or corrected, the allowance for which will be liberally granted. (7-1-24)

306. – 324. (RESERVED)

Rules 325 through 349 – Motions

325. MOTIONS — DEFINED — FORM AND CONTENTS — TIME FOR FILING ~~(RULE 325)~~.

01. Motions Defined. All other requests for the presiding officer to take any other action in a contested case are called "motions." (7-1-24)

02. Form and Contents. Motions should: (7-1-24)

a. Be in writing, and comply with the same form requirements as pleadings; (7-1-24)

b. Not exceed twenty-five (25) pages for dispositive motions, or ten (10) pages for any other motion, except as authorized by the presiding officer; (7-1-24)

c. Fully state the facts upon which they are based; (7-1-24)

d. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; (7-1-26)

e. Include any affidavits, declarations, exhibits, and attachments intended to support the motion, which do not count towards any page limitation, except as otherwise directed by the presiding officer; and (7-1-24)

f. State the relief sought. (7-1-24)

03. Oral Argument. If the moving party desires oral argument on the motion, it must state so in the motion, including whether it is requested to be in-person or by remote means. All motions seeking dispositive relief shall be set for oral argument; all other motions may be decided on briefing without oral argument, in the presiding officer's discretion. (7-1-26)

04. Time for Filing. Except as otherwise directed by statute, rule, or order of the presiding officer, motions may be filed at any time during a contested case proceeding. (7-1-24)

05. Oppositions to Motions. An opposition to a motion may be filed by any party in the proceedings using the same form and content requirements as the motion being opposed. Unless otherwise directed by the presiding officer, any opposition to a motion must be filed within fourteen (14) days after service of the motion. Reply briefs and further briefing on the motion shall be permitted only upon request of the presiding officer. (7-1-24)

06. Determination of Motions. (7-1-24)

a. Dispositive Motions. Any ruling on a dispositive motion shall be in writing. The presiding officer may suspend all deadlines, including the evidentiary hearing date, during the consideration of a dispositive motion. (7-1-24)

b. Other Motions. Except as otherwise directed by statute, rule, or these rules, a ruling on any other motion may be presented orally by the presiding officer. The presiding officer may direct any party to submit a proposed order regarding an oral ruling. (7-1-24)

326. SPECIAL MOTIONS ~~(RULE 326)~~.

01. Interlocutory Motions for Reconsideration. Motions for reconsideration are permitted for any interlocutory order issued by a presiding officer, but any such motion for reconsideration must be filed within fourteen (14) days of the issuance of the order for which reconsideration is sought. The presiding officer may, in their discretion, rule upon a motion for reconsideration with or without additional briefing, and with or without conference. (7-1-24)

02. Motions for Permissive Appeal. Motions for permissive appeal are permitted for any interlocutory order issued by a presiding officer, subject to the deadlines and procedure set forth in Idaho Appellate Rule 12, "Appeal By Permission." (7-1-24)

327. STAY OF AGENCY ACTION ~~(RULE 327)~~.
Where not otherwise prohibited by law, a presiding officer may stay an agency order upon motion by any party or by the presiding officer's own motion, pending resolution of the contested case. Upon completion of the contested case, if the agency action is affirmed, in whole or in part, the presiding officer shall lift the stay of the agency action. (7-1-26)

328. MOTIONS TO SEAL ~~(RULE 328)~~.

01. Issuance of Order to Seal. Upon motion and a showing that evidence in a contested case is confidential, non-public, or otherwise legally protectable, a presiding officer may order that evidence, and any portion of the proceeding addressing that evidence, sealed. Any such records placed under seal are protected from disclosure outside of the contested case proceeding. (7-1-26)

02. Duration of Order. Upon issuance of an order sealing any documents or exhibits, those records will remain under seal throughout the proceeding and shall be returned to the submitting party at the conclusion of the proceeding, after the time for filing a petition for judicial review has expired. The opposing party shall be entitled to promptly review those documents in preparing for the hearing, and may rely on those documents during the hearing as necessary to ensure a fair hearing process, but shall not maintain its own copy of the sealed document after conclusion of the hearing nor reveal, discuss, or disclose the contents of those sealed documents to any other person outside of the proceeding. (7-1-26)

03. Unsealing by Agency Head. In reviewing a preliminary order or a recommended order, an agency head may unseal any records sealed by a presiding officer, either upon motion by a party or upon the agency head's own motion. (7-1-26)

04. Provision of Sealed Records Upon Judicial Review. In the event of judicial review, any sealed records within the agency record will be provided to the relevant judicial body by the agency in conjunction with its transmittal of the agency record as required by Section 67-5275, Idaho Code. Whether a record sealed by a presiding officer in a contested case proceeding remains sealed during a judicial review is a determination for the reviewing court. (7-1-26)

329. DEFECTIVE, INSUFFICIENT, OR LATE MOTIONS AND OTHER SUBMISSIONS.
Defective, insufficient, or late motions, or any other submissions, may be returned, dismissed, or rejected. ( )

3~~29~~30. – 349. (RESERVED)

Rules 350 through 374 – Filing and Service of Pleadings and Motions

350. FILING –NUMBER OF COPIES – ELECTRONIC SUBMISSION – FACSIMILE MACHINE PROHIBITED ~~(RULE 350)~~.
An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the presiding officer and any other person designated by the agency to receive filings in the case. If authorized by the presiding officer or the agency, e-mail or other electronic submission of documents will satisfy this requirement. No party shall be required to file, submit, or receive any documents via facsimile machine. (7-1-24)

351. SERVICE BY PARTIES ~~(RULE 351)~~.
All documents submitted by a party and intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the presiding officer and any other person designated by the agency to receive filings in the case. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. The presiding officer may also direct the means of service the parties are to use during a contested case proceeding. (7-1-24)

352. SERVICE BY AGENCY OR PRESIDING OFFICER ~~(RULE 352)~~.

01. Service by the Agency. Unless otherwise required by statute or rule, the officer designated by the

agency to serve notices, summonses, complaints, or orders issued by the agency, that initiate or conclude a contested case proceeding, may serve these documents by regular mail, or by certified mail with return receipt requested, to a party's last known mailing address, or by personal service. (7-1-24)

02. Service by a Presiding Officer. Unless otherwise required by statute or rule, if a party has appeared in a contested case, the presiding officer, in their discretion, may determine the governing means of service during the contested case proceeding. Service may be effectuated by personal service, regular mail, certified mail with return receipt requested, or e-mail. Where a party has appeared by e-mail, service by e-mail shall be the preferred means of service. When an item to be served is too large for e-mail, service may be made by other means, with e-mail notice to the party as to how the item is being served. (7-1-24)

03. Proof of Service. Every notice and order that the agency or presiding officer serves in a contested case must be accompanied by proof of service stating the service date, each party or other person who was served, and the method of service. The agency or presiding officer may use a proof of service similar to those used by parties. (7-1-24)

353. WHEN SERVICE COMPLETE ~~(RULE 353)~~.
Unless otherwise provided by statute, rule, order, or notice, service is complete when a copy is deposited in the United States mail, Statehouse mail, or with a third-party commercial overnight service; when personal service is made; or when there is an electronic verification that an e-mail has been sent. (7-1-24)

354. PROOF OF SERVICE ~~(RULE 354)~~.
Every document that a party or interested person files and intends to be part of the agency record must be accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have on
this _____ day of _____,
served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names and addresses)).
(by e-mail to: (list names and e-mail addresses))
(Signature) (7-1-24)

355. – 399. (RESERVED)

SUBCHAPTER E – PREHEARING MATTERS ~~(RULES 400-499)~~
Rules 400 Through 424 – Prehearing Conferences

400. PURPOSES OF THE SCHEDULING CONFERENCE ~~(RULE 400)~~.
The presiding officer may, by order or notice issued to all parties and to all interested persons, convene a scheduling conference in a contested case for the purposes of: identifying or simplifying the issues; identifying stipulations of fact or evidence to avoid unnecessary discovery; scheduling discovery when discovery is authorized before the agency, as well as identifying the allowed types of discovery and limitations thereon; arranging for the exchange of proposed exhibits and witness lists; discussing the potential for, or status of, ADR; scheduling of the prehearing conference, evidentiary hearing, and other hearings; establishing anticipated procedures at the evidentiary hearing and other hearings; determining the format and/or location of the evidentiary hearing; determining any transcription or additional recording request by any party; identifying facts and materials for which official notice may be had; resolving any accommodation requests, including, but not limited to, ADA or interpreter requests; and addressing other matters that may aid in the just, speedy, and inexpensive disposition of the proceeding. (7-1-24)

401. NOTICE OF SCHEDULING CONFERENCE ~~(RULE 401)~~.
Except where differently required by statute or rule, notice of the place, date, and hour of a scheduling conference should be served within seven (7) days of appointment of the presiding officer, and the scheduling conference should, when feasible, be held within fourteen (14) days of appointment of the presiding officer. The place, date, or hour of a scheduling conference may also be set or reset by agreement of the parties, subject to approval by the presiding officer, or by the presiding officer on their own initiative, if the presiding officer finds it necessary and appropriate. (7-1-24)

402. PURPOSES OF THE PREHEARING CONFERENCE ~~(RULE 402)~~.
Except where otherwise required by statute or rule, or where the presiding officer determines a prehearing conference is not necessary based upon the needs of the case, the presiding officer should convene a prehearing conference in a contested case no less than seven (7) days prior to the evidentiary hearing, except where the presiding officer determines that the needs of the case require otherwise. The purposes of the prehearing conference shall include: identifying or simplifying the issues; identifying stipulations of fact or evidence to avoid unnecessary proof; disposition of pending motions; confirming compliance with all prehearing deadlines; discussing the potential for, or status of, ADR; avoidance of unnecessary proof and of cumulative evidence; establishing procedures at the evidentiary hearing and other hearings; addressing proposed stipulations between the parties regarding any facts or evidence; and addressing other matters that may aid in the just, speedy, and inexpensive disposition of the proceeding. (7-1-24)

403. ORDERS RESULTING FROM CONFERENCES ~~(RULE 403)~~.
The presiding officer should issue a written order based upon the results of, agreements reached at, and rulings made at any scheduling or prehearing conference. Orders issued regarding the results of conferences will control the course of subsequent proceedings, unless modified by the presiding officer for good cause. Any such order issued shall be served upon all parties and to all interested persons to the proceeding. (7-1-24)

404. OTHER STATUS CONFERENCES BEFORE THE EVIDENTIARY HEARING ~~(RULE 404)~~.
Upon approved request by any party to the presiding officer or on the presiding officer's own initiative, a status conference may be set at any time prior to the evidentiary hearing to address any matter that may aid in the just, speedy, and inexpensive disposition of the proceeding. (7-1-24)

405. RECORD OF CONFERENCES ~~(RULE 405)~~.
Prehearing conferences must be held formally before the presiding officer. All other conferences may be held formally (on the record) or informally (off the record) before the presiding officer. Agreements by the parties may be put on the record during formal conferences, or may be reduced to writing and filed after the conference. The results of any informal conference, or any agreements reached therein, must be later put on the record, either verbally in subsequent conference or filed in writing, to be considered part of the agency record. (7-1-24)

406. – 424. (RESERVED)

Rules 425 through 449 – Defaults

425. DEFAULT ~~(RULE 425)~~.
A presiding officer may enter a notice of a proposed default order against any party pursuant to the provisions of Section 67-5242A, Idaho Code. A party who has indicated that its case presentation will be limited to a written submission will not be defaulted, and the presiding officer may complete the adjudication without that party's further participation. (7-1-26)

01. Procedure if No Petition to Vacate is Filed. If no timely petition to vacate is filed by the party subject to a proposed default order, the presiding officer should issue the default no later than three (3) days after the expiration of the time within which the party could have filed the petition, or otherwise as promptly as possible, except where a shorter period is directed by law. (7-1-26)

02. Procedure Upon Filing of a Petition to Vacate. Upon the timely filing of a petition to vacate by a party subject to a proposed default order, the presiding officer may request additional briefing from the parties, and may also set a conference for argument regarding the proposed default order. Whether additional briefing and/or argument is accepted, the presiding officer should issue or vacate the default no later than fourteen (14) days after the petition to vacate is filed, except where a shorter period is directed by law. (7-1-24)

03. Procedure After Default. Upon the issuance of a default order, the presiding officer may set a conference with the non-defaulting party to determine which remaining proceedings, if any, are still needed to complete the adjudication. Such conference should be held as soon as practicable after the issuance of the default order. (7-1-26)

04. Notices to Defaulting Party. While the defaulting party shall not participate in any remaining proceedings, the presiding officer shall direct that all subsequent filings, including all orders issued in the contested case proceeding, continue to be served on the defaulting party by the most appropriate means, as determined by the presiding officer. (7-1-24)

426. CONTINUANCE IN LIEU OF DEFAULT ~~(RULE 426)~~.
A presiding officer may, in the interest of due process and on their own motion, decline to issue a notice of a proposed default order, and instead make a reasonable continuance of the proceedings. If the same party subsequently fails to attend the continued prehearing conference or hearing, a notice of a proposed default order must be issued. (7-1-26)

427. APPEARANCE AT HEARING ~~(RULE 427)~~.
A party will be deemed to have appeared if present at the time and place of the properly noticed hearing within fifteen (15) minutes of the scheduled hearing time. (7-1-26)

428. INACTIVE CASES ~~(RULE 428)~~.
Absent a showing of good cause, and at the sole discretion of the presiding officer, a case in which no action has been taken for a period of six (6) months will be dismissed. The parties shall receive fourteen (14) days' notice prior to any dismissal. (7-1-26)

429. – 449. (RESERVED)

Rules 450 through 474 – Discovery

450. KINDS AND SCOPE OF DISCOVERY LISTED ~~(RULE 450)~~.

01. Discovery, Generally. Parties are encouraged to informally exchange information and documentation which will aid in the just, speedy, and inexpensive disposition of the proceeding. Except where prohibited by statute or rule, discovery may be conducted as agreed between the parties and approved by the presiding officer, or where ordered by the presiding officer on their own initiative. The presiding officer may, in their discretion, limit any discovery on the grounds that it: (7-1-26)

a. Does not appear relevant; (7-1-24)

b. Appears unduly repetitious; (7-1-24)

c. Violates any constitutional, statutory, or regulatory provisions; (7-1-24)

d. Violates any privilege provided by statute or recognized by the courts of Idaho; (7-1-24)

e. Appears to be made in bad faith; (7-1-24)

f. Is not proportional to the needs of the proceeding; and/or (7-1-24)

g. Otherwise exceeds the permitted scope of discovery as defined in these rules. (7-1-24)

02. Kinds and Scope - Rules of Civil Procedure. Unless otherwise provided by statute, rule, order, or notice, when discovery is authorized before the agency, the kinds and scope of discovery is governed by the Idaho Rules of Civil Procedure, subject to any limitations established by the presiding officer. (7-1-24)

451. WHEN DISCOVERY AUTHORIZATION NOT REQUIRED ~~(RULE 451)~~.
The agency or agency staff may conduct any inspection, examination, or investigation authorized by statute or rule at any time without making a discovery request or filing a motion to compel discovery. This rule recognizes, but does not enlarge or restrict, an agency's statutory and/or regulatory right of inspection, examination (including mental or physical examination), or investigation which is independent of, and cumulative to, any right of discovery in contested case proceedings, and may be exercised by the agency whether or not a person is party to a contested case proceeding before the agency. Information obtained from any such statutory or regulatory inspection, examination, or investigation may be used in any contested case proceeding or for any other purpose, except as restricted by statute or

rule. The presiding officer may, by order and upon request by the agency, authorize or compel any such inspection, examination, or investigation authorized by statute or rule. (7-1-24)

452. RIGHTS TO DISCOVERY RECIPROCAL ~~(RULE 452)~~.
Where permitted, all parties to a proceeding have a right of discovery of all other parties to a proceeding, subject to any limitations set by the presiding officer. (7-1-24)

453. SUBPOENAS ~~(RULE 453)~~.
Pursuant to Section 67-5251A, Idaho Code, or as authorized by other statute or rule, the presiding officer may issue subpoenas upon a party's motion or upon the presiding officer's own initiative. A subpoena may command the witness to whom it is directed to appear to give testimony at an evidentiary hearing, any other hearing, or a deposition at a specified time and place. A subpoena that commands a person to produce or to permit inspection and copying of documents, electronically stored information or tangible things, or to permit inspection of premises, may be joined with a command to appear as a witness at an evidentiary hearing, any other hearing, or a deposition, or may be issued separately. Any party, or person upon whom the subpoena has been served, may move the presiding officer to quash a subpoena prior to the deadline for compliance with the subpoena. (7-1-26)

454. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS ~~(RULE 454)~~.
Notices of deposition, production requests, written interrogatories, and requests for admission, and any responses or objections thereto, must be served on all parties in the proceeding. Filing of any such documents shall only be upon order of the presiding officer. (7-1-26)

455. PREPARED TESTIMONY AND EXHIBITS ~~(RULE 455)~~.
Order, notice, or rule may require a party or parties to file before hearing, and to serve on all other parties, prepared expert testimony and exhibits to be presented at hearing. Assigned exhibit numbers should be used for all prepared testimony. (7-1-24)

456. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY ~~(RULE 456)~~.
The presiding officer may impose all sanctions recognized by statute or rule, including the rules of civil procedure, for failure to comply with an order compelling discovery. (7-1-26)

457. PROTECTIVE ORDERS ~~(RULE 457)~~.
The presiding officer may issue protective orders recognized by statute or rule, including the rules of civil procedure~~, limiting access to information and documents~~. ~~(7-1-24)~~( )

458. – 474. (RESERVED)

Rules 475 through 499 – Evidence

475. RULES OF EVIDENCE ~~(RULE 475)~~.
Evidence is admissible, and excludable, as provided in Section 67-5251, Idaho Code. The presiding officer may exclude inadmissible evidence with or without motion. Evidence should be taken by the presiding officer to assist the parties' development of the record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence, except as to rules governing evidentiary privileges, or where otherwise required by statute or rule. (7-1-24)

476. EVALUATION OF EVIDENCE ~~(RULE 476)~~.
A presiding officer is entitled to weigh the quality of evidence presented, including the credibility of witnesses. ~~While a presiding officer is not bound by the Idaho Rules of Evidence, except as provided in Rule 475, the~~ A presiding officer may assign less weight to evidence that ~~would~~ could otherwise be deemed inadmissible under the Idaho Rules of Evidence. ~~(7-1-24)~~( )

477. BURDEN OF PROOF ~~(RULE 477)~~.
Except as otherwise provided by statute, rule, regulation, or binding state or federal judicial decisional authority, the burden of proof is on the party requesting or challenging an agency action or order, or who is otherwise the proponent of an order or position. Absent an allegation of fraud, or a statute, rule, regulation, or binding state or federal judicial decisional authority requiring a higher standard, a preponderance of evidence standard applies. (7-1-24)

478. HEARSAY ~~(RULE 478)~~.
The presiding officer may admit, weigh, and consider hearsay evidence. In evaluating hearsay, including hearsay which has been admitted without objection, the presiding officer should determine whether it is supported by circumstantial guarantees of trustworthiness, such as other corroborating evidence. A factual finding cannot be based solely on hearsay unless permitted by statute or where no objection has been made to the admission of the hearsay.
(7-1-24)

479. OFFICIAL NOTICE ~~(RULE 479)~~.
Official notice ~~of facts~~ may be taken as provided in Section 67-5251, Idaho Code. ~~Any notice that official notice will be taken, or that official notice is requested, should be made in writing prior to any hearing in which the facts or material will be offered, and shall include either a copy of the facts or materials for which official notice may be taken, or citation to a readily accessible source.~~ If official notice ~~of facts or materials~~ is made ~~at a~~ during hearing, ~~for which official notice of such facts or materials had not been made prior to the hearing,~~ the presiding officer ~~may~~ must provide such recess or continuance sufficient to allow any party a timely and meaningful opportunity to contest and rebut the facts or material so noticed. ~~(7-1-24)~~( )

480. DEPOSITIONS AND PREPARED TESTIMONY ~~(RULE 480)~~.
Depositions and other prepared testimony, or parts thereof, may be offered into evidence and included in the record of hearing, with or without reading. Where only part of a deposition or prepared testimony is offered, a presiding officer may, upon motion or their own initiative, order that other parts of the deposition or prepared testimony be admitted.
(7-1-24)

481. OTHER WRITTEN EVIDENCE ~~(RULE 481)~~.
If a presiding officer determines that a part of the evidence in a contested case may be received in written form to expedite the case without substantially prejudicing the interests of any party, the presiding officer will allow any party to make objection thereto. (7-1-24)

482. OBJECTIONS -- OFFERS OF PROOF ~~(RULE 482)~~.
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. When a party objects to the admission of evidence, the presiding officer will rule on the objection, or may receive the evidence subject to later ruling. For exhibits offered at hearing, the presiding officer should determine whether any party objects to the admission of the exhibit. Exhibits to which no objection is made are deemed admitted into evidence without the need for any additional action by the offering party. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken, but offers of proof regarding excluded evidence are permitted. (7-1-24)

483. EXHIBITS ~~(RULE 483)~~.
Exhibit numbers may be assigned to the parties by the presiding officer before hearing. ~~Except where permitted by the presiding officer to be presented in digital form, exhibits prepared for hearing should ordinarily be printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except m~~Maps, charts, photographs, and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. ~~Neither motion pictures, slides, opaque projections, videotapes, audiotapes, nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without advance approval of the presiding officer.~~
~~(7-1-24)~~( )

484. POLYGRAPHS ~~(RULE 484)~~.
Except where required by statute or rule, results of polygraph examinations, and expert or lay opinion testimony based thereon, are not admissible unless all parties stipulate to admissibility. (7-1-24)

485. EXPERTS ~~(RULE 485)~~.
A presiding officer may admit, weigh, and consider expert opinions, whether presented in writing or through testimony. Expert opinions are generally admissible if the proffering party demonstrates the relevancy of the expert opinions, as well as demonstrates the general reliability of the expert opinions, both as to methodology and qualifications of the expert. Expert testimony that is conclusory, offers legal opinions, or which is based solely upon

hearsay, is inadmissible. Expert opinions may be offered in writing, and may be either set forth formally, as in an expert report, or informally, as in a letter, e-mail, records, or other similar writings. (7-1-24)

486. INTERPRETERS ~~(RULE 486)~~.

01. Appointment. If an agency or presiding officer determines that an interpreter is needed for a hearing based upon a party's disability or lack of English language proficiency, the agency or presiding officer shall advise the party that he or she has a right to a qualified interpreter. If ~~then~~ requested, a qualified interpreter shall be appointed. A party needing interpretation may, alternatively, advise the agency or presiding officer that they will provide their own alternate qualified interpreter. ~~(7-1-24)~~( )

02. Oath. At the start of the hearing, the interpreter shall be sworn as follows: "Do you solemnly swear or affirm that you will interpret and/or translate accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law?" (7-1-24)

03. Cost. The agency shall pay the cost of an interpreter needed for a hearing. Any alternate qualified interpreter used by the party needing interpretation shall be paid for solely by that party. (7-1-24)

487. ADVERSE INFERENCE ~~(RULE 487)~~.
The presiding officer, in their sole discretion, may draw an adverse inference when a party fails to produce requested evidence, including testimony, which is or was reasonably in the party's control, provided that the party is provided advance notice and an opportunity to respond. (7-1-26)

488. – 499. (RESERVED)

SUBCHAPTER F – HEARINGS ~~(RULES 500-599)~~
Rules 500 Through 599 – Hearings

500. NOTICE OF HEARING ~~(RULE 500)~~.
If not previously set in an order following a scheduling or prehearing conference, notice of the time, place, and nature of the hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the presiding officer ~~finds by order~~ determines that it is necessary or appropriate that the hearing be held earlier. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the name of the presiding officer who will hear the case, the name, address, and telephone number of the person to whom inquiries about scheduling or hearing facilities should be directed, and the names of persons with whom the pleadings or other documents in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has provided a statement of the legal authority under which the hearing is to be held and/or a short and plain statement of the matters asserted or the issues involved, the notice of hearing must do so. ~~(7-1-24)~~( )

501. HOW HEARINGS HELD ~~(RULE 501)~~.
Hearings may be held in person, by telephone, or by other remote technology, as agreed by the parties. If the parties are unable to agree how a hearing will be held, the presiding officer shall decide, based upon considerations of: locations of the parties; locations of any witnesses; agreements regarding the admission of prepared testimony or other evidence; complexity of the dispute; limitations in suitability of telephone or remote technology for one or more parties; and any other factor impacting the just, speedy, and inexpensive determination of the proceeding. However a hearing is held, all participants shall be afforded an opportunity to participate in the entire proceeding while it is taking place. (7-1-24)

502. CONDUCT AT HEARINGS ~~(RULE 502)~~.

01. ~~Nondisruptive~~ Conduct. All persons attending a hearing must conduct themselves in a respectful and nondisruptive manner. No person shall interfere with the conduct of, disrupt, or threaten interference with or disruption of the hearing. ~~(7-1-24)~~( )

02. Abusive Or Improper Questioning Or Argument. A presiding officer may halt any questioning or argument they deem abusive or improper, with or without prior warning and with or without objection by a party.

Continued abusive or improper questioning or argument thereafter by the same party may be deemed disruptive and subject to sanctions. (7-1-24)

03. Audio-Visual Recordings. Except where otherwise not permitted by statute, rule, order, notice, or any other governing policy or procedure, audio-visual equipment, including cameras, microphones, and the like, may be operated in the hearing room by any attendee during the course of a hearing after permission is granted by the presiding officer and then only pursuant to any conditions the presiding officer may impose to avoid disruption of the hearing. At any time during the hearing, should disruption occur, the presiding officer may impose in their discretion any additional conditions upon the use of audio-visual equipment, including the revocation of permission for such use. Any audio-visual recording created by an attendee is not considered part of the agency record. ~~(7-1-24)~~( )

04. Sanctions for Disruptive Conduct. In the event of interference, disruption, or threat by any attendee to the hearing, the presiding officer shall read this rule to those persons causing such interference or disruption and thereafter proceed as deemed appropriate, which may include termination of the hearing or ordering the disruptive person to leave or be removed from the hearing. (7-1-24)

503. CONFERENCE AT HEARING ~~(RULE 503)~~.
In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits, or prepared testimony, limitation of witnesses, order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (7-1-24)

504. PRELIMINARY PROCEDURE AT HEARING ~~(RULE 504)~~.
Before taking evidence at a hearing, the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements to explain a party's presentation. (7-1-24)

505. CONSOLIDATION OF PROCEEDINGS ~~(RULE 505)~~.
The agency or the presiding officer may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings, the presiding officer determines the order of the proceeding. (7-1-24)

506. ORDER OF PROCEDURE ~~(RULE 506)~~.
The presiding officer may determine the order of presentation of witnesses and examination of witnesses. (7-1-24)

507. TESTIMONY UNDER OATH ~~(RULE 507)~~.
All testimony presented at hearing by any witness will be given under oath. Before testifying, each witness must swear or affirm that the testimony the witness will give before the presiding officer is the truth, the whole truth, and nothing but the truth. (7-1-24)

508. PRESIDING OFFICER'S CALLING OR EXAMINING OF WITNESSES ~~(RULE 508)~~.
A presiding officer may call or examine a witness on their own or at a party's request. All parties are entitled to cross-examine the witness, and any party may make objections during the presiding officer's examination. (7-1-24)

509. SEQUESTRATION OF WITNESSES ~~(RULE 509)~~.
On motion by a party, and upon showing of good cause, a presiding officer may order that any or all testifying witnesses be sequestered during a hearing. However, a named party and/or their designated representative, even if designated as a witness, shall not be sequestered. (7-1-24)

510. PARTIES AND PERSONS WITH SIMILAR INTERESTS ~~(RULE 510)~~.
If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (7-1-24)

511. CONTINUANCE OF HEARING ~~(RULE 511)~~.
The presiding officer may continue a hearing to a later date, either upon motion or on their own initiative. (7-1-24)

512. RULINGS AT HEARINGS ~~(RULE 512)~~.
The presiding officer rules on motions and objections presented at hearing. Rulings by the presiding officer may be made verbally on the record, or addressed by written order after hearing. (7-1-24)

513. ORAL ARGUMENT ~~(RULE 513)~~.
The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (7-1-24)

514. BRIEFS – PROPOSED ORDERS – POSITION STATEMENTS ~~(RULE 514)~~.
In any contested case, the presiding officer may request, and any party or interested person may ask to submit, any briefs, proposed orders, proposed findings of fact, proposed conclusions of law, or position statements regarding any issue in the proceeding. ~~(7-1-24)~~( )

515. – 599. (RESERVED)

SUBCHAPTER G – POSTHEARING MATTERS ~~(RULES 600-699)~~
Rules 600 Through 624 – Record For Decisions

600. AGENCY RECORD ~~(RULE 600)~~.

01. Requirement. The agency shall maintain an official record of each contested case as provided for in Section 67-5249, Idaho Code. (7-1-24)

02. Presiding Officers. Presiding officers shall provide the agency with the presiding officer's copy of the agency record within a reasonable time after the expiration of the time for any motion for reconsideration of a recommended or preliminary order, or at such other time as the agency may request. If the presiding officer is one assigned by the Office of Administrative Hearings, the Office of Administrative Hearings shall provide such copy of the agency record to the agency. (7-1-24)

601. RECORDING OR REPORTING OF HEARINGS ~~(RULE 601)~~.

01. In-Person, Remote Video and Telephonic Hearings. All hearings shall be recorded at the agency's expense, either by audiotape, digital audio, and/or court reporter, as selected by the presiding officer. Any party requesting a video recording of an in-person hearing may do so at their own expense, subject to the presiding officer's determination that the recording does not cause distraction or disruption, which determination may be made at any time before or during the hearing. (7-1-26)

02. Transcripts. Any party may request an official transcript of any recording of any hearing at their own expense. However, if a party uses an official transcript for any purpose in the contested case proceeding, the full official transcript must be provided to all parties and the presiding officer. If a party is required to provide a copy of an official transcript to all parties and the presiding officer, the presiding officer may, in their discretion, direct all other parties to contribute to the expense of the official transcript. (7-1-24)

03. Presiding Officers. In preparing any order, a presiding officer may rely upon any unofficial transcript of a hearing, including, but not limited to, any transcript automatically generated by computer software. If the presiding officer determines that an unofficial transcript of a hearing is incomplete or insufficient, or otherwise determines that an official transcript is required for any other reason, the presiding officer may direct the creation of an official transcript at the agency's expense. If the agency is not a party to the proceeding, the presiding officer may direct the creation of an official transcript at the parties' shared expense. (7-1-24)

602. – 624. (RESERVED)

Rules 625 through 649 – Orders

625. RECOMMENDED ORDERS ~~(RULE 625)~~.

01. Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (7-1-24)

02. Content. Except where otherwise provided by statute or rule, every recommended order must contain the following, ~~paragraphs~~ or substantially similar, ~~paragraphs~~ notice: ~~(7-1-24)~~

~~**a.** This is a recommended order by the presiding officer. It will not become final without action of the agency head. If you disagree with this recommended order, you may file a "motion for reconsideration" with the presiding officer. (7-1-26)~~

~~**b.** If you would like to file a motion for reconsideration of this recommended order with the presiding officer, you must do so within fourteen (14) days of the service date of this order. After the presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)~~

~~**c.** If another party has filed a motion for reconsideration of this recommended order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the presiding officer, in their discretion, requests it. (7-1-24)~~

~~**d.** If you would like to request oral argument regarding any motion for reconsideration, you must state so in your filing. The decision whether to have oral argument is at the sole discretion of the presiding officer, and they may decide to not have oral argument, even if you or any other party has requested it. (7-1-26)~~

~~**e.** Within fourteen (14) days after (a) the service date of this recommended order, (b) the service date of the presiding officer's denial of a motion for reconsideration, or (c) the failure within twenty-one (21) days of the presiding officer to grant or deny a motion for reconsideration, any party may request review of this recommended order by the agency head or their designee. If no review is timely requested by any party, the agency head or their designee shall thereafter have fifty-six (56) days from the last date a party could have requested review to issue a final order. (7-1-26)~~

~~**f.** If review is requested, written briefs in support of a requested review shall be filed with the agency head or their designee at the same time review is requested. Opposing parties shall thereafter have twenty-one (21) days to submit a response brief. The agency head or their designee may schedule oral argument in the matter before issuing a final order. The agency head or their designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head or their designee may also remand the matter for further evidentiary hearings, or conduct their own additional hearings, if further factual development of the record is necessary before issuing a final order. (7-1-26)~~

This is a recommended order.

If you disagree with this order, you may file a request for reconsideration with the hearing officer, a request for review with the agency head, or both.

If no party seeks reconsideration or review of this order within fourteen (14) days of when it was served, the agency head then has fifty-six (56) days to issue a final order. Once a final order is issued, any party who disagrees with it then has twenty-eight (28) days to file a "petition for judicial review" with a district court. See Idaho Code Sections 67-5270 through 67-5279.

Request for Reconsideration (file with the Hearing Officer):
You may file a motion for reconsideration within fourteen (14) days of this order. The hearing officer may ask for oral argument or written responses from other parties, but does not have to. The hearing officer has twenty-one (21) days to make a decision. If no decision is made in twenty-one (21) days, the request is denied.

Request for Review (file with the Agency Head):
You may also file a request for review with the agency head within fourteen (14) days of this order. If a request for reconsideration was filed with the hearing officer, your request for review is not due until fourteen (14) days after the

hearing officer's decision. The agency head decides whether to allow oral argument.

After the review, the agency head may issue a final order, send the case back to the hearing officer, or hold more hearings. You will be informed of their decision.

( )

03. Content if Reconsideration is Not Permitted or Feasible. Where statute or rule does not permit a motion for reconsideration, or otherwise renders a motion for reconsideration not feasible (e.g., insufficient time), the ~~recommended order must contain the following language or substantially similar language:~~ notice shall omit reference thereto. ~~(7-1-26)~~( )

~~**a.** This is a recommended order by the presiding officer. It will not become final without action of the agency head. Motions for reconsideration filed with the presiding officer will not be considered. (7-1-26)~~

04. Service of Recommended Orders. All recommended orders must be served on all parties contemporaneously with the issuance of the recommended order. (7-1-24)

626. PRELIMINARY ORDERS ~~(RULE 626)~~.

01. Definition. Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head or the agency head's designee pursuant to Section 67-5245, Idaho Code. (7-1-24)

02. Content. Except as otherwise provided by statute or rule, every preliminary order must contain the following, ~~paragraphs~~ or substantially similar, ~~paragraphs~~ notice: ~~(7-1-24)~~

~~**a.** This is a preliminary order by the presiding officer. It can and will become final without further action of the agency, and without any further notice to you, unless any party requests that either the presiding officer or the agency head review it. If no such request is made within fourteen (14) days of the service of this preliminary order, the order will become final, and you will then have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Idaho Code Sections 67-5270 through 67-5279. (7-1-26)~~

~~**b.** If you disagree with this preliminary order, you may file a "motion for reconsideration" with the presiding officer, or you may file a "petition for review" with the agency head. You are allowed to file both of these. (7-1-26)~~

~~**c.** If you would like to file a motion for reconsideration of this preliminary order with the presiding officer, you must do so within fourteen (14) days of the service date of this order. After the presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)~~

~~**d.** If another party has filed a motion for reconsideration of this preliminary order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the presiding officer, in their discretion, requests it. (7-1-24)~~

~~**e.** You may also file a petition for review regarding this preliminary order, with a supporting brief which sets forth the basis for review, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline. The agency head may also notify the parties within fourteen (14) days of the service date of this order, that they, by their own choice, are reviewing this preliminary order, which notice will identify the issues the agency head will review. If a motion for reconsideration has been filed with the presiding officer, your petition for review, or the agency head's notice, does not have to be filed until fourteen (14) days after the motion for reconsideration process with the presiding officer is complete. (7-1-24)~~

~~**f.** If another party has filed a petition for review of this preliminary order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the petition for review. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)~~

~~g. If you would like to request oral argument regarding any motion for reconsideration, or petition for review, you must state so in your filings. The decision whether to have oral argument is a decision for the presiding officer or the agency head to make, and they may decide to not have oral argument, even if you or any other party has requested it. (7-1-26)~~

~~h. If an agency head reviews a preliminary order, they have the option of either issuing a final order, remanding the matter back to the presiding officer, or holding additional hearings. You will be notified of the agency head's choice if the preliminary order is reviewed. If a petition to review the preliminary order is granted, the agency head (or designee) shall allow all parties an opportunity to file briefs on the issues, and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. (7-1-26)~~

This is a preliminary order.

If you disagree with this order, you may file a request for reconsideration with the hearing officer, a request for review with the agency head, or both.

If no party seeks reconsideration or review of this order within fourteen (14) days of when it was served, it will become a final order. Once it is a final order, any party who disagrees with it then has twenty-eight (28) days to file a "petition for judicial review" with a district court. See Idaho Code Sections 67-5270 through 67-5279.

Request for Reconsideration (file with the Hearing Officer):
You may file a motion for reconsideration within fourteen (14) days of this order. The hearing officer may ask for oral argument or written responses from other parties, but does not have to. The hearing officer has twenty-one (21) days to make a decision. If no decision is made in twenty-one (21) days, the request is denied.

Request for Review (file with the Agency Head):
You may also file a request for review with the agency head within fourteen (14) days of this order. If a request for reconsideration was filed with the hearing officer, your request for review is not due until fourteen (14) days after the hearing officer's decision. The agency head may also choose to review the preliminary order on their own if they notify all parties within the same fourteen(14)-day period. After a petition or notice of review is filed, any other party has fourteen (14) days to respond. The agency head decides whether to allow oral argument.

After the review, the agency head may issue a final order, send the case back to the hearing officer, or hold more hearings. You will be informed of their decision.

( )

03. Content if Reconsideration is Not Permitted or Feasible. Where statute or rule does not permit a motion for reconsideration, or otherwise renders a motion for reconsideration not feasible (e.g., insufficient time), the notice shall omit reference thereto. ( )

0~~3~~4. Service of Preliminary Orders. All preliminary orders must be served on all parties contemporaneously with the issuance of the preliminary order. (7-1-24)

627. FINAL ORDERS ~~(RULE 627)~~.

01. Definition. Final orders are preliminary orders that have become final under Rule 626 and Section 67-5245, Idaho Code, or orders issued by the agency head, either as the presiding officer or in regard to a recommended order, pursuant to Section 67-5246, Idaho Code, or as otherwise provided by law. (7-1-26)

02. Content. Except as otherwise provided by statute or rule, every final order ~~issued by the agency head~~ must contain the following, ~~paragraphs~~ or substantially similar, ~~paragraphs~~ notice: ~~(7-1-24)~~

~~a. This is a final order of the agency. (7-1-24)~~

~~b.~~ If you disagree with this final order, you ~~will then~~ have twenty-eight (28) days to file a "petition for

judicial review" with a district court., pursuant to See Idaho Code Sections 67-5270 through 67-5279, Idaho Code.
(7-1-24)

Request for Reconsideration (file with the Agency Head):

c. Prior toBefore requesting judicial review of this final order, you may also file a "motion for reconsideration" with the agency head. If you do wish to file a motion for reconsideration, you must do so or presiding officer who issued the order within fourteen (14) days of the service date of this order. After the agency head or presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. If no decision is made in twenty-one (21) days, the request is denied.
(7-1-24)

d. If another party has filed files a motion for reconsideration of this final order, you must file any opposition brief within fourteen (14) days from the service date of the that motion for reconsideration. No further briefing by any party, and no oral argument, will be permitted unless tThe agency head or presiding officer, in their discretion, requests it decides whether to allow oral argument.
(7-1-24)

e. OnceAfter an agency head or presiding officer has ruled upon a motion for reconsideration, or if twenty-one (21) days have passed since the a motion for reconsideration was filed without a ruling by the agency head, you will have twenty-eight (28) days to file a petition for judicial review with a district court., pursuant to See Idaho Code Sections 67-5270 through 67-5279, Idaho Code.
(7-1-24)( )

03. Service of Final Orders. (7-1-24)

a. Parties and presiding officers. Final orders must be served on all parties and the presiding officer contemporaneously with the issuance of the final order.
(7-1-24)( )

b. Presiding officers. Final orders must be served on the presiding officer contemporaneously with the issuance of the final order.
(7-1-24)

cb. Non-Parties. Where not otherwise directed by statute or order, final orders should, upon request, be made available for public inspection within a reasonable time after the issuance of the final order. The conspicuous posting of the final order on an agency website, by clearly identifying the action and providing an accessible electronic copy of the final order, shall be deemed to satisfy this requirement. (7-1-24)

628. ORDERS REGARDING COSTS AND/OR FEES (RULE 628).

01. Scope of Rule. This rule provides procedures for considering requests for costs and/or fees (including attorneys' fees) when an agency has authority to award costs and/or fees under other provisions of law. This rule is not a source of authority for awarding costs and/or fees. (7-1-24)

02. Filing of Motions for Awards of Costs and/or Fees. Unless otherwise provided by statute, rule, or order: (7-1-24)

a. Procedure. Upon the issuance of a final order, any party seeking an award of costs and/or fees must file a motion within fourteen (14) days of the service date of the final order. The request must state the basis for which fees or costs may be awarded. Any opposition to the motion must be made within fourteen (14) days. Upon the making of such a motion, the agency head may issue an order upon the motion, or assign resolution of the motion to the presiding officer. Any order regarding a request for an award of costs and/or fees shall be final and subject to judicial review pursuant to Sections 67-5270 through 67-5279, Idaho Code. The filing of any motion for an award of costs and/or fees, and any proceedings thereon, do not extend, alter, or stay any other deadlines in the contested case proceeding. (7-1-24)

b. Interlocutory requests. Motions for awards of costs and/or fees made prior to the issuance of a final order will not be ruled upon prior to the issuance of the final order, but will instead be deemed filed as of the date of the final order. (7-1-24)

03. Orders Granting or Denying Costs and/or Fees. Every order granting or denying a request for costs and/or fees must cite the statutes or rules under which the determination of the request for costs and/or fees has been made. (7-1-24)

629. ORDER NOT DESIGNATED ~~(RULE 629)~~.
If an order is not designated as interlocutory, recommended, preliminary, or final at its release, any party may move to designate the order as interlocutory, recommended, preliminary, or final, as appropriate. (7-1-24)

630. MODIFICATION OF ORDERS ON PRESIDING OFFICER'S AND AGENCY HEAD'S OWN MOTION ~~(RULE 630)~~.

01. Recommended and Preliminary Orders. A presiding officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the presiding officer's own motion within fourteen (14) days after issuance by withdrawing the order and issuing an amended recommended or preliminary order. (7-1-24)

02. Final Orders. The agency head may modify or amend a final order at any time before a petition for judicial review to district court has been filed or before the expiration of the time for the filing of a petition for judicial review to district court, whichever is earlier, by withdrawing the earlier final order and issuing an amended final order. (7-1-24)

03. Other Orders. A presiding officer may modify or amend any other order issued by them at any time prior to the issuance of a preliminary or recommended order. An agency head may modify or amend any other order issued by them at any time prior to the issuance of a final order. (7-1-24)

631. CLARIFICATION OF ORDERS ~~(RULE 631)~~.
Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary, or final. Petitions for clarification from final orders do not suspend or toll the time to file a motion for reconsideration or appeal of the order. A petition for clarification may be combined with a motion for reconsideration or stated in the alternative as a motion for clarification and/or reconsideration. (7-1-24)

632. STAY OF ORDERS ~~(RULE 632)~~.
Any party or person affected by an order may file a motion to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute or rule. A presiding officer may stay any interlocutory, preliminary, or recommended order on their own motion, and an agency head may stay any final order on their own motion. (7-1-24)

633. VOIDING OF ORDERS ~~(RULE 633)~~.

01. Notice. Any notice to the Chief Administrative Law Judge pursuant to Section 67-5283(2)(b), Idaho Code, regarding the alleged failure of an independent contract hearing officer to comply with the requirements of Section 67-5283(2)(a), must be submitted in writing to, and received by, the Chief Administrative Law Judge within thirty (30) days of the issuance of the independent contract hearing officer's order, and should state whether the order involves a financial transaction and whether the noticing party requests a stay of the independent contract hearing officer's order. (7-1-26)

02. Stay. If the Chief Administrative Law Judge determines that the independent contract hearing officer's order involves, or may involve, a financial transaction, the Chief Administrative Law Judge may promptly issue a stay of the independent contract hearing officer's order for the duration of the investigation, which shall be served on all parties to the contested case. (7-1-26)

03. Investigation. (7-1-24)

a. An investigation into an independent contract hearing officer's alleged failure to comply with the requirements of Section 67-5283(2)(a), Idaho Code, may be conducted by either the Chief Administrative Law Judge or any person contracted by them to conduct such investigation or a portion thereof. (7-1-26)

b. The independent contract hearing officer being investigated shall promptly comply with all information and documentation requests made by the Chief Administrative Law Judge or their designee related to the alleged failure to comply. (7-1-26)

04. Determination. Within fourteen (14) days of the notice regarding an alleged failure of an independent contract hearing officer to comply with the requirements of Section 67-5283(2)(a), Idaho Code, the Chief Administrative Law Judge shall issue a determination in writing of their findings and conclusions, which shall be served on all parties to the contested case. Upon issuance of a determination, any stay will automatically dissolve. (7-1-26)

05. Voiding of Order. If the Chief Administrative Law Judge's written determination finds a failure to comply has occurred, or where an independent contract hearing officer fails to cooperate in an investigation as to whether they failed to comply, the Chief Administrative Law Judge shall declare the independent contract hearing officer's order void and of no effect. The Chief Administrative Law Judge's investigation, determination, and voiding of an order pursuant to Section 67-5283(2)(b), Idaho Code, does not constitute a contested case proceeding under the APA, and is not an appealable agency order. (7-1-26)

06. Reassignment. If the Chief Administrative Law Judge's written determination finds a failure to comply has occurred, the Chief Administrative Law Judge shall promptly reassign the contested case to another administrative law judge or independent contract hearing officer for completion of the contested case. (7-1-26)

634. ORDERS TO DISMISS.

01. Form. Orders dismissing a proceeding for any reason are preliminary orders. ( )

02. Effect. Unless the order of dismissal states otherwise, a dismissal is without prejudice. ( )

6345. – 649. (RESERVED)

Rules 650 through 699 – Judicial Review

650. JUDICIAL REVIEW, GENERALLY ~~(RULE 650)~~.
Sections 67-5270 through 67-5279, Idaho Code, and the rules of civil procedure govern who may petition for judicial review of a final agency order to district court, where and when such an appeal must be filed, and how the judicial review process will be conducted. (7-1-24)

651. PETITION FOR JUDICIAL REVIEW ~~(RULE 651)~~.
A petition for judicial review filed by any party must be filed with the agency and with the district court, and must be served on all parties and the presiding officer. (7-1-24)

652. – 699. (RESERVED)

SUBCHAPTER H – SPECIAL PROCEEDINGS ~~(RULES 700-799)~~
Rules 700-724 – Intervention

700. INTERVENTION GENERALLY ~~(RULE 700)~~.
Persons who are not parties to a proceeding but who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. Where an agency participates in the hearing in a neutral capacity, the agency may petition to intervene to become a party. (7-1-24)

701. FORM AND CONTENTS OF PETITIONS TO INTERVENE ~~(RULE 701)~~.
Petitions to intervene must comply with all rules governing form of pleadings. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. The petition must also include a proof of service reflecting service upon all existing parties to the proceeding. (7-1-24)

702. TIMELY FILING OF PETITIONS TO INTERVENE ~~(RULE 702)~~.

Petitions to intervene must be filed at least twenty-one (21) days before the date set for hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption or prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (7-1-24)

703. OPPOSITION TO PETITIONS TO INTERVENE ~~(RULE 703)~~.
No petition to intervene will be ruled upon by a presiding officer earlier than fourteen (14) days after its filing, except during or after a hearing in which any party may be heard. Any party opposing a petition to intervene must file an objection within seven (7) days after receipt of the petition to intervene and serve the objection upon all parties of record and the proposed intervenor(s). (7-1-24)

704. HEARING ON PETITIONS TO INTERVENE ~~(RULE 704)~~.
Where necessary to develop a full record on the question of intervention, the presiding officer shall conduct a hearing on the petition to determine whether intervention will be permitted and to define the scope of intervention and any limitations thereon. All parties to the proceeding will be permitted to participate in such a hearing, and will be permitted to offer testimony and exhibits. (7-1-24)

705. ORDERS ON PETITIONS TO INTERVENE ~~(RULE 705)~~.
If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding, does not unduly broaden the issues, and does not unduly delay or prejudice the original parties, the presiding officer will grant intervention, unless the petitioner's interest is already adequately represented by one (1) or more parties or participants already participating in the case. The order granting intervention may be subject to reasonable conditions as determined by the presiding officer, including limiting the factual or legal issues the intervenor may raise and/or the means an intervenor may use to present and develop those issues, so as to avoid undue delay or prejudice to the original parties. If it otherwise appears that an intervenor has no direct or substantial interest in the proceeding, or that intervention would unduly broaden the issues, or unduly delay or prejudice the original parties, the presiding officer may deny the petition. ~~(7-1-24)~~( )

706. DENIAL OF INTERVENTION DOES NOT PRECLUDE PARTICIPATION ~~(RULE 706)~~.
A person whose petition for intervention is denied may still, subject to these rules and the discretion of the presiding officer, participate in the proceeding as an interested person or a public witness. (7-1-24)

707. – 724. (RESERVED)

Rules 725-749 – Declaratory Rulings

725. FORM AND CONTENTS OF PETITIONS FOR DECLARATORY RULINGS ~~(RULE 725)~~.
A petition for declaratory ruling on the applicability of a statute, a rule administered by an agency, or an order issued by an agency is a pleading which initiates a declaratory proceeding. The form and content of a petition for declaratory ruling must substantially comply with this rule, as determined by the presiding officer. (7-1-24)

01. Form. Petitions for declaratory rulings must comply with all rules governing form of pleadings. (7-1-24)

02. Content. Petitions for declaratory rulings shall: (7-1-24)

a. Identify the petitioner and state the petitioner's interest in the matter; (7-1-24)

b. State the declaratory ruling the petitioner seeks; and (7-1-24)

c. Indicate the statute, order, or rule for which a declaratory ruling is requested, and the factual allegations which support the petitioner's request. (7-1-24)

03. Legal Assertions. Legal assertions in the petition may be accompanied by citations to caselaw, statutes, or other authority. (7-1-24)

726. SERVICE AND NOTICE OF PETITION FOR DECLARATORY RULING ~~(RULE 726)~~.
At a minimum, the petitioner must serve a copy of their petition on any person the petitioner knows would be affected by the declaratory relief sought. Further, notice of a petition for declaratory ruling should also be made by the petitioner in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. The presiding officer may direct the petitioner and/or the agency to make, or attempt to make, notice or service to potentially interested persons if those potentially interested persons have not previously been notified of, or served with, the petition. (7-1-24)

727. PROCEEDINGS ~~(RULE 727)~~.

01. Determination Of Need For Hearing. The presiding officer shall have thirty (30) days to determine if a hearing on the petition for declaratory ruling is needed. (7-1-24)

02. No Hearing Needed. If the presiding officer determines that a decision can be rendered on the face of the petition without hearing or further proceedings, the presiding officer shall thereafter render, as soon as practicable, a preliminary or recommended order reflecting the determination that no hearing is needed and the reasons therefor, and the declaratory ruling. If the presiding officer is an agency head, the order reflecting the determination that no hearing is needed and the reasons therefor, and declaratory ruling, shall issue as a final order. (7-1-24)

03. Hearing Needed. If a presiding officer determines that a hearing is needed, the petitioner, the agency, and any other interested persons shall be notified, and a hearing upon the petition shall be held as soon as practicable. A declaratory hearing shall be conducted utilizing the contested case proceeding rules herein, and a preliminary or recommended order setting forth the declaratory ruling shall be issued as soon as practicable after the hearing. If the presiding officer is an agency head, the order reflecting the declaratory ruling shall issue as a final order. (7-1-24)

728. SPEEDY HEARING PERMITTED ~~(RULE 728)~~.
Parties may request, or a presiding officer may order sua sponte, a speedy hearing on a petition for declaratory ruling. In evaluating the need or request for a speedy hearing, a presiding officer should weigh both factors favoring speedy hearing, such as an imminent deadline facing petitioner, and factors disfavoring speedy hearing, such as impairment to notice and/or due process. (7-1-24)

729. LIMITATIONS ~~(RULE 729)~~.

01. Contested Cases. (7-1-24)

a. Petitions for declaratory rulings, or other requests for declaratory relief, are not permitted where the requested declaratory relief addresses the same subject matter or issues of an existing contested case. (7-1-24)

b. Further, in responding to a petition for declaratory relief, an agency may make motion to the presiding officer to dismiss the declaratory proceeding upon a showing that the agency has initiated a contested case to address the same subject matter or issues of the declaratory action. (7-1-24)

02. No Limitation On Other Agency Action. The provisions of these rules regarding petitions for declaratory rulings shall not be construed in any way to preclude: (7-1-24)

a. Any person from requesting an agency to informally interpret a pertinent statute, rule, or order in the routine course of agency business, whether such request is made in-person, by mail, by e-mail, or by telephone; (7-1-24)

b. An agency from providing an informal interpretation in response to any such request; or (7-1-24)

c. An agency from issuing any agency guidance of any kind, as defined in Section 67-5250, Idaho Code. (7-1-24)

730. – 749. (RESERVED)

Rules 750-799 – Emergency Proceedings

750. SERVICE OF EMERGENCY ORDER ~~(RULE 750)~~.
Orders issued as the result of an emergency proceeding under Section 67-5247, Idaho Code, shall be served upon all persons required to comply with the order by both certified mail, return receipt requested, and additionally by e-mail or personal service, where feasible. (7-1-24)

751. HEARING ON EMERGENCY ORDER ~~(RULE 751)~~.

01. Time for Hearing. The hearing upon an emergency order shall be held no later than twenty-eight (28) days after the issuance of the emergency order, except as otherwise provided by statute, rule, or order. (7-1-24)

02. Appointment of Presiding Officer. No later than three (3) days after the issuance of the emergency order, the agency shall assign the matter to the Office of Administrative Hearings, or, where otherwise authorized by statute or rule, appoint a presiding officer. (7-1-24)

03. Notice of Proposed Hearing. As quickly as feasible, the presiding officer shall issue a notice of proposed hearing date. (7-1-24)

a. Service. The notice of hearing shall be served upon all persons required to comply with the order by both certified mail, return receipt requested, and additionally by e-mail or personal service, where feasible. The agency may be served by e-mail or regular mail. (7-1-24)

b. Content. Except as otherwise provided by statute or rule, the notice of proposed hearing date must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

i. You have a right to have an evidentiary hearing before the agency as quickly as feasible if you wish to contest the Emergency Order dated [insert date of order]. Any hearing will be conducted as a contested case hearing pursuant to Chapter 52, Title 67 of the Idaho Code. (7-1-24)

ii. The presiding officer shall, at the time of hearing: (7-1-26)

(1) Regulate the course of the proceedings to assure that there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary, and (7-1-24)

(2) Shall afford all parties the opportunity to respond and present evidence and argument on all issues involved, except as restricted by a limited grant of intervention or a prehearing order. (7-1-24)

iii. The hearing date identified in this notice is a proposed hearing date. If you would like to request a different date, you may contact the presiding officer identified in this notice within seven (7) days of receiving this notice. You may contact the presiding officer to make your request by phone, e-mail, or by formal filing with the presiding officer. If you do not timely request a different date, the hearing will be held on the date proposed in this notice. (7-1-24)

04. Request for Alternative Hearing Date. Within seven (7) days of receipt of the notice of proposed hearing, any party can request an alternative hearing date, for a date sooner or later than proposed. Such request may be made to the presiding officer informally, via e-mail or telephone. The presiding officer shall hold a conference as soon as practicable with all parties to select a new date. (7-1-24)

05. Regular Proceedings Permitted. Although the hearing upon an emergency order shall be treated as an appeal of an agency order, any party participating therein shall be entitled to any discovery, presentation of evidence, or other contested case activities as would have been afforded as if the emergency order had not been issued. (7-1-24)

06. Stay. Motions requesting stay of the emergency order are permitted; however, no stay may be

granted by the presiding officer except upon stipulation by the agency to the stay and any terms governing the stay. (7-1-24)

752. – 799. (RESERVED)

SUBCHAPTER I – AGENCY-SPECIFIC RULES ~~(RULES 800-899)~~
Rules 800 Through 809 Agency-Specific Contested Case Rules

800. OTHER AGENCY-SPECIFIC CONTESTED CASE RULES ~~(RULE 800)~~.

01. Mandatory Application. Some agencies have promulgated their own contested case rules to comply with applicable federal law or specific requirements of Idaho law applicable to the agency or programs it administers. The presiding officer shall adopt and apply any such agency-specific rules, including temporary rules. Agency-specific rules which were promulgated as alternative procedures to the prior Idaho Rules of Administrative Procedure of the Attorney General shall continue to be adopted and applied, except as may conflict with any of these Idaho Rules of Administrative Procedure. Previously-promulgated alternative procedures which conflict with these Idaho Rules of Administrative Procedure, but which are otherwise mandated by federal or state statute, rule, regulation, or binding state or federal judicial decisional authority, shall be adopted and applied notwithstanding these Idaho Rules of Administrative Procedure. (7-1-24)

02. Optional Application. Agency-specific contested case procedures may also be reflected in agency policies, procedures, or other non-rule guidance. Upon motion of a party or upon their own motion, the presiding officer may adopt and apply such agency-specific policies, procedures, or other non-rule guidance, provided that such policies, procedures, or other non-rule guidance are publicly-available pursuant to Section 67-5250, Idaho Code; however, any such policies, procedures, or non-rule guidance which are required to comply with applicable federal law shall be adopted and applied. (7-1-26)

801. – 999. (RESERVED)

Sections Affected Index

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02.01.07 – Rules Governing Hemp

Docket No. 02-0107-2601 (Fee Rule)

001. Scope. 14
010. Definitions. 15
300. Licenses. 16
301. Fees. 18
302. – 399. (Reserved) 19
400. Producer Records. 19
401. – 499. (Reserved) 20
500400. Inspection Of Producers. 20
501401.Transplanting. 21
5402. – 5499. (Reserved) 21
600500. Inspection Of Handlers. 21
501. – 599. (Reserved) 22
600. Inspection of Retailers. 22
601. – 699. (Reserved) 22
700. Samples And Testing. 22
701. – 799. (Reserved) 23
800. Producer Disposal. 23
801. – 899. (Reserved) 24
900. Violations. 24
901. – 999. (Reserved) 25

02.02.14 – Rules for Weights and Measures

Docket No. 02-0214-2601 (Fee Rule)

004. Incorporation By Reference. 27
012. License Required For Commercially-Used Weighing Or Measuring Instrument Or Device. 28
015. License Renewals. 28
016. Maximum And Minimum License Fee Schedule For Commercially-Used Weighing And Measuring Instruments And Devices. 28
017. Voluntary Inspection Of Weighing And Measuring Instruments And, Devices, Re-examination Of Rejected Devices, And Fees. 29
100. Charges For Special Request Testing Or, Examination, Or Re-Examination. 30
101. -- 99449. (Reserved) 30
450. Licenses For Service Persons For Commercial Weighing And Measuring Devices. 30
451. -- 649. (Reserved) 31
650. Rural Fuel Exemption. 31
651. -- 999. (Reserved) 31

02.04.05 – Rules Governing Grade A Milk and Manufacture Grade Milk

Docket No. 02-0405-2601

104. Incorporation By Reference. 33
271. Auditing Payments For Milk Or Cream. 34
2712. -- 279. (Reserved) 35

02.06.09 – Rules Governing Invasive Species and Noxious Weeds

Docket No. 02-0609-2601

110. Definitions. 37
130. Early Detection and Rapid Response Aquatic Invertebrate Invasive Species. 38
140. Invasive Species - Aquatic Invertebrates. 38
141. Invasive Species - Fish. 39
142. Invasive Species - Amphibians 40
143. Invasive Species - Reptiles. 40

146. Invasive Species – Insects. ... 40
147. Invasive Species – Mollusks. ... 41
148. (Reserved) ... 41
149. Invasive Species - Invasive Plants: Energy Crops. ... 41
150. Invasive Species - Invasive Plants: Trap Crops. ... 42
220. Noxious Weeds - Designations. ... 42
304. Incorporation By Reference. ... 46

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.11 – Registration of Postsecondary Educational Institutions and Proprietary Schools

Docket No. 08-0111-2601

100. Recognition Of Accreditation Organizations. ... 48

08.02.02 – Rules Governing Uniformity

Docket No. 08-0202-2601

015. Idaho Educator Credential. ... 50
016. Idaho Interim Certificateion, Non-Traditional Routes, and Certificate Reinstatement. ... 58
021. Endorsements. ... 59
042. Alternative Authorization. ... 60
043. -- 059. (Reserved) ... 62
060. Application Procedures / Professional Development. ... 62
100. Official Vehicle For Approving Educator Preparation Programs. ... 63
111. Bullying, Harassment And Intimidation Prevention And Response. ... 63

Docket No. 08-0202-2602

004. Incorporation By Reference. ... 66

Docket No. 08-0202-2603

012. Accredited Institution. ... 68
014. Certificates Issued To Applicants From Regionally Accredited Institutions ... 68

08.02.03 – Rules Governing Thoroughness

Docket No. 08-0203-2601

105. High School Graduation Requirements. ... 70
111. Assessment In The Public Schools. ... 73

Docket No. 08-0203-2602

004. Incorporation By Reference. ... 78
105. High School Graduation Requirements. ... 79

08.06.01 – Rules Governing the K-12 and Postsecondary Education System

Docket No. 08-0601-2601 (New Chapter)

000. Legal Authority. ... 84
001. Scope. ... 84
002. Definitions. ... 84
003. – 009. (Reserved) ... 85
010. Resolution Of Athletic Participation Disputes. ... 85
011. – 999. (Reserved) ... 87

IDAPA 11 – IDAHO STATE POLICE / PEACE OFFICER STANDARDS AND TRAINING COUNCIL

11.11.01 – Rules of the Idaho Peace Officer Standards and Training Council

Docket No. 11-1101-2601

004. Administrative Procedures Act. ... 89
005. – 009. (Reserved) ... 89
010. Definitions. ... 89
051. Mandatory And Voluntary Certification. ... 92
053. Education. ... 93

056. Documentation Of Criminal, Traffic, And Military Discharge Records. 94
057. Requirements For Basic Certification. 94
080. Certifications For Part-Time Officers. 96
082. Marine Deputy Certification.(Reserved) 97
092. Canine Evaluator Certification. 97
110. Decertification. 98
111. Decertification Proceedings-General Provisions. 99
112. Decertification Proceedings-Due Process procedures. 99
123. Requirements For High Liability Instructor Endorsement. 101
126. Maintaining POST Instructor Certifications And Endorsements. 102
133. POST Credit For In-Service Training. 102
143. Maintenance Of Records. 103

Docket No. 11-1101-2603

010. Definitions. 106
051. Mandatory And Voluntary Certification. 110
054. Age. 110
070. Higher Level Certification. 110
071. Law Enforcement Experience, Military Experience, And College Credits For Purposes Of Higher Certification. 111
072. Intermediate And Advanced Certification. 112
080. Certifications For Part-Time Officers. 116
083. Part-Time Juvenile Detention Justice Officer Certification. 117
131. In-Service Training Requirements For Retaining Basic Certification. 118

IDAPA 13 – IDAHO DEPARMENT OF FISH AND GAME

13.01.09 – Rules Governing Taking of Game Birds and Upland Game Animals

Docket No. 13-0109-2601

100. Game Bird Tags. 120
152. Upland Game Bird Permit (Department-Stocked Birds). 120

13.01.10 – Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife

Docket No. 13-0110-2601

150. Cwd Management Restrictions. 122

IDAPA 15 – OFFICE OF THE GOVERNOR / IDAHO STATE LIQUOR DIVISION

15.10.01 – Rules of the Idaho State Liquor Division

Docket No. 15-1001-2601

021. Suppliers. 124

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.19 – Idaho Food Code

Docket No. 16-0219-2601

000. Legal Authority. 128
001. Applicability. 128
002. Incorporation By Reference. 129
110. Definitions And Abbreviations -- A Through K. 129
111. Definitions And Abbreviations -- L Through Z. 131
360. Advising Consumers Of Health Risk Of Raw Or Undercooked Foods. 132

16.03.22 – Residential Assisted Living Facilities

Docket No. 16-0322-2601

110. Facility License Application. 134

16.03.26 – Medicaid Plan Benefits

Docket No. 16-0326-2601

000. Legal Authority. 138
003. Background Check Requirements. 138
004. (Reserved) 139
005. Definitions: A Through H. 139
006. Definitions: I Through O. 142
007. Definitions: P Through Z. 144
022. Provider Agreements. 146
023. – 024. (Reserved) 147
025. Conditions For Payment. 147
026. Third-Party Liability. 148
027. – 029. (Reserved) 150
030. General Payment Procedures. 150
031. Handling Of Overpayments And Underpayments For Specified Providers. 151
032. – 034. (Reserved) 152
035. Records. 152
036. – 039. (Reserved) 153
040. Documentation For Audits. 153
050. NF And ICF/IID Reimbursement. 153
054. Specialized Reimbursement: Electronic Visit Verification (EVV). 160
060. Services, Treatments, And Procedures Not Covered By Medicaid. 161
074. Hospital Services: Provider Reimbursement. 162
102. Case Management: Coverage And Limitations. 166
103. (Reserved) 167
104. Case Management: Provider Qualifications And Duties. 167
105. – 109. (Reserved) 167
142. LM Services: Coverage and Limitations. 167
184. CHIS: Provider Qualifications And Duties. 167
192. Preventive Health Assistance (PHA): Coverage And Limitations. 169
193. Preventive Health Assistance (PHA): Procedural Requirements. 170
211. Prescription Drugs: Participant Eligibility. 170
252. Therapy Services: Coverage And Limitations. 170
253. Therapy Services: Procedural Requirements. 171
262. Audiology Services: Coverage And Limitations. 172
272. DMEPOS: Coverage And Limitations. 172
322. SBS: Service-Specific Participant Eligibility. 173
325. SBS: Provider Qualifications And Duties. 174
340. NEMT Services: Definitions. 178
354. EPSDT Services: Provider Qualifications And Duties. 178
461. PDN: Participant Eligibility. 178
473. NF: Coverage And Limitations. 179
474. NF: Procedural Responsibilities. 181
475. Preadmission Screening And Resident Review Program (PASRR). 181
486. NF: Distressed Facility. 182
488. NF: Behavioral Care Unit (BCU) Rates. 183
489. NF: BCU Qualifications. 183
490. NF: BCU Eligible Days. 183
490. (Reserved) 183
491. NF: Special Rates. 183
502. ICF/IID: Coverage And Limitations. 184
503. ICF/IID: Procedural Responsibilities. 185
504. ICF/IID: Provider Qualifications And Duties. 186
537. HCBS: Conflict Of Interest. 186

538. (Reserved) 186
540. A&D Waiver Services: Definitions. 186
542. A&D Waiver Services: Coverage And Limitations. 187
543. A&D Waiver Services: Procedural Requirements. 190
544. A&D Waiver Services: Provider Qualifications And Duties. 191
545. A&D Waiver Services: Provider Reimbursement. 193
546. – 548. (Reserved) 193
549. Transition Management. 193
551. PCS: Eligibility. 194
552. PCS: Coverage And Limitations. 194
553. PCS: Procedural Requirements. 195
555. PCS: Reimbursement. 196
560. DD Services: Requirements. 197
561. DD Determination Standards: Participant Eligibility. 197
568. Adult DD Services: Definitions. 199
571. Adult DD Services: Coverage And Limitations. 200
572. Adult DD Services: Procedural Requirements. 200
573. Adult DD Services: Service Plan Requirements. 200
581. Children's DD HCBS State Plan Option: Eligibility Determination. 203
602. Developmental Therapy: Coverage And Limitations. 203
604. Developmental Therapy: Individual Program Plan (IPP) Procedural Requirements.(Reserved) 204
605. Developmental Therapy: Procedural Requirements. 205
606. Developmental Therapy: Provider Qualifications And Duties. 206
611. Adult DD Waiver Services: Participant Eligibility. 207
614. Adult DD Waiver Services: Provider Qualifications And Duties. 207
630. Service Coordination: Definitions. 209
631. Service Coordination: Participant Eligibility. 209
632. Service Coordination: Coverage And Limitations. 210
634. Service Coordination: Provider Qualifications And Duties. 211
800. Participant Eligibility. 212
801. Participant Responsibilities. 212
802. Continuation Of The Consumer-Directed Community Supports (CDCS) Option. 213
803. Circle Of Supports (COS). 214
804. (Reserved) 215
805. Paid Consumer-Directed Community Supports (CDCS). 215
810. Support Broker (SB) Requirements And Limitations. 216
811. Support Broker (SB) Duties And Responsibilities. 217
812. – 814. (Reserved) 219
815. Community Support Worker (CSW) Limitations. 219
816. Paid Community Support Worker (CSW) Duties And Responsibilities. 219
817. – 819. (Reserved) 220
820. Support And Spending Plan (SSP) Development. 220
829. Quality Assurance. 222
833. Fiscal Employer Agent (FEA): Consumer-Directed Community Supports (CDCS). 222
837. Fiscal Employer Agent (FEA): Payment Process. 223
842. Fiscal Employer Agent (FEA): Performance Metrics. 226
970. Managed Care For Duals. 227
971. Managed Care For Duals: Definitions. 227
973. Managed Care For Duals: Eligibility And Enrollment. 227
974. Managed Care For Duals: Coverage And Limitations. 228
975. Managed Care For Duals: Gold Card. 228
9756. – 979. (Reserved) 228

985. Liens And Estate Recovery: Limitations And Exclusions. 228

16.05.06 – Criminal History and Background Checks

Docket No. 16-0506-2601

000. Legal Authority. 231
001. Policy. 231
002. -- 009. (Reserved) 232
010. Definitions. 232
011. -- 049. (Reserved) 233
050. Fees And Costs For Background Checks. 233
051. -- 059. (Reserved) 233
060. Agency Responsibilities. 233
061. -- 069. (Reserved) 234
070. NonCompliance With These Rules. 234
071. -- 099. (Reserved) 234
100. Individuals Subject To A Background Check. 234
101. Department Individuals Subject To A Background Check. 236
102. -- 119. (Reserved) 236
120. Application For A Background Check. 236
121. -- 124. (Reserved) 237
125. Idaho Child Protection Central Registry Checks. 237
126. Applicants Receiving A Department Enhanced Clearance Background Check. 237
127. -- 139. (Reserved) 238
140. Submission Of Fingerprints. 238
141. -- 149. (Reserved) 238
150. Time Frame For Submitting Fingerprints. 238
151. -- 159. (Reserved) 238
160. Withdrawal Of Application. 238
161. -- 169. (Reserved) 239
170. Availability To Provide Services Pending Completion Of The Background Check. 239
171. -- 179. (Reserved) 239
180. Background Check Results. 239
190. Background Check Clearance. 239
191. -- 194. (Reserved) 240
195. Use Of Previously Completed Background Checks. 240
196. -- 199. (Reserved) 241
200. Unconditional Denial. 241
201. -- 209. (Reserved) 242
210. Disqualifying Crimes Resulting In An Unconditional Denial. 242

16.06.01 – Child and Family Services

Docket No. 16-0601-2601

000. Legal Authority. 248
002. -- 008. (Reserved) 248
009. Criminal History And Background Check Requirements. 248
010. Definitions And Abbreviations A Through E. 249
013. Definitions And Abbreviations S Through Z. 250
014. -- 019. (Reserved) 250
020. General Requirements Applicable To All Child And Family Services Programs. 250
021. -- 029. (Reserved) 251
030. Core Child And Family Services. 251
031. -- 049. (Reserved) 252
050. Protections And Safeguards For Children And Families. 252
060. Family Case Records. 254

061. -- 399. (Reserved) 254
400. Authority For Alternate Care Services. 255
401. Considerations For Placement In Alternate Care. 255
402. Involuntary Placement Of Indian Children. 255
403. Date A Child Entered Foster Care. 256
405. Alternate Care Case Management. 256
430. Ongoing Eligibility. 257
431. (Reserved) 258
432. Medicaid Eligibility For Child in Foster Care. 258
433. Income, Benefits And Savings Of Children In Foster Care. 258
433. (Reserved) 258
436. Parental Financial Support For Children In Alternate Care. 258
437. Accounting And Reporting. 258
441. Referral To Child Support ServicesCollection of Child Support. 258
445. Dental Care. 258
485. Treatment Foster Care. 259
486. Other Alternative Care. 260
487. -- 549. (Reserved) 260
550 -- 551. (Reserved) 260
552. Reporting System. 260
553. Assigning Reports For Safety Assessment. 260
554. Response Priorities. 260
556. Reports Involving Indian Children. 261
557. Reports Involving Military Families. 261
558. (Reserved) 261
559. Child Protection Safety And Comprehensive Assessments. 261
560. Disposition Of Child Protection Reports. 262
561. Child Protection Central Registry. 262
563. Levels Of Risk On The Child Protection Central Registry. 263
564. Notification Of A Substantiated Incident Of Abuse, Neglect, Or Abandonment, And Related Administrative Review And Contested Case Appeal Rights. 264
565. (Reserved) 265
566. Petition For Removal Of An Individual's Name From The Child Protection Central Registry. .. 265
568. Court-Ordered Child Protection Safety Assessment. 266
569. Petition Under The Child Protective Act. 266
570. (Reserved) 267
571. Child Custody Investigations For The District Court. 267
572. -- 699. (Reserved) 267
700. Adoption Services Policy. 267
701. Services To Be Provided In Adoptions. 267
719. Investigation. 268
720. -- 749. (Reserved) 269
750. Application To Be Adoptive Parent(s). 269
751. -- 761. (Reserved) 270
762. Completing The Adoption Home Study. 270
763. Pre-Adoptive Parent Responsibilities. 272
860. Placement Of The Child. 272
863. Investigation Of Petition To Adopt And Report To The Court. 272
889. Certified Adoption Professional Requirements. 274
890. Terms Of Certification For Adoption Professionals. 274
893. Records Of The Certified Adoption Professional. 276
894. Fees Charged By The Department. 276

895. Department Responsibility To Certified Adoption Professional. 276
896. -- 899. (Reserved) 277
900. Conditions for Adoption Assistance. 277
901. -- 907. (Reserved) 277
908. Title Iv-e Adoption Assistance. 277
910. Types And Amounts Of Assistance. 277
911. Adoption Assistance Program Agreement. 278
912. -- 919. (Reserved) 279
920. Administrate Review For Adoption Assistance. 279
921. Retroactive Adoption Assistance Benefits. 279
922. Conditions For Guardianship Assistance. 279
923. Title Iv-e Guardianship Assistance. 280
925. Types And Amounts Of Guardianship Assistance. 280
926. Guardianship Assistance Program Agreements. 280
927. Administrative Review For Guardianship Assistance. 281

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

20.02.01 – Rules Pertaining to the Idaho Forest Practices Act

Docket No. 20-0201-2601

072. -- 999079. (Reserved) 283
080. Salvage Harvesting. 283
081. -- 999. (Reserved) 284

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.05.01 – Rules of the Board of Drinking Water and Wastewater Professionals

Docket No. 24-0501-2601 (Fee Rule)

400. Fees. 286

24.39.10 – Rules of the Idaho Electrical Board

Docket No. 24-3910-2601

200. Practice Standards. 288
500. Permits And Inspections. 291
501. – 599. (Reserved) 293
600. Idaho Electrical Code. 293

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION

26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities

Docket No. 26-0120-2601 (Fee Rule)

250. Fee Schedule: Individual Campsite Or Facility. 297
250. Fee Schedule: Individual Campsite Or Facility. 298

IDAPA 28 – IDAHO DEPARTMENT OF COMMERCE

28.04.01 – Rules Governing the Idaho Reimbursement Incentive Act

Docket No. 28-0401-2601

001. Scope. 301
002. (Reserved) 301
003. Administrative Appeals. 301
004. -- 099. (Reserved) 301
100. Definitions And Abbreviations. 301
101. -- 129. (Reserved) 301
130. Program Intent. 301
131. -- 149. (Reserved) 302
150. Eligibility. 302

151. Job Creation Criteria. 302
152. Application Process. 302
153. -- 159. (Reserved) 304
160. Conflict Of Interest. 304
161. -- 169. (Reserved) 305
170. Agreements. 305
171. -- 179. (Reserved) 305
180. Tax Credit Authorization. 305
181. -- 189. (Reserved) 306
190. Annual Reporting By ApplicantCompliance, Reporting, and Audit. 306
191. Annual Reporting By Department. 306
192. -- 199. (Reserved) 307
200. Audit. 307
201. -- 209. (Reserved) 307
210. Continuation Of Tax Credit. 307
211. Termination Or Suspension Of Tax Credit. 307
212191. -- 999. (Reserved) 307

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – Property Tax Administrative Rules

Docket No. 35-0103-2602

418. -- 508. (Reserved) 309
419. Defining Retail Customer – Kilowatt Hours And Therms Tax. 309
420. -- 508. (Reserved) 309

35.02.01 – Tax Commission Administration and Enforcement Rules

Docket No. 35-0201-2601

000. Legal Authority. 311
001. Scope. 312
002. Administrative Appeals. 312
0032. – 009. (Reserved) 312
010. Definitions. 312
011. – 109. (Reserved) 313
110. Declaratory Rulings. 313
111. – 130. (Reserved) 314
131. Unacceptable Payments. 314
150. Requirements Of A Valid Tax Returns. 315
151. – 152. (Reserved) 316
153. Tax Preparers -- Alternative Methods Of Signing Income Tax Returns. 316
154. (Reserved) 316
155. Tax Returns And Other Documents Filed Electronically. 316
156. – 199. (Reserved) 317
200. Examination Of Records: Recordkeeping And Production Requirements. 317
201. Examination Of Records: Recordkeeping And Production Requirements. 317
2012. – 299. (Reserved) 317
300. Assessment Of Tax. 317
301. – 309. (Reserved) 317
310. Interest Rates. 317
311. – 319. (Reserved) 317
320. Notice Of Deficiency: Filing A Protest. 317
321. – 324. (Reserved) 318
325. Notice Of Deficiency: Protest Procedures. 318
326. – 327. (Reserved) 318

328. Opportunity To Participate: Notice To Petitioner. 318
329. – 399. (Reserved) 319
400. Penalties: General Rules. 319
401. – 409. (Reserved) 319
410. Negligence Penalties. 319
430. Penalty For Failure To File, Failure To Pay, Or Delinquent Filing. 320
431. – 499. (Reserved) 321
500. Settlements. 321
501. Procedures On Settlements Over Fifty Thousand Dollars ($50,000). 322
502. – 699. (Reserved) 322
700. Disclosure Of Information: Scope. 322
701. (Reserved) 323
702. Disclosure Of Information: Third Parties. 323
703. Disclosure Of Information: General Public. 323
705. Disclosure Of Information -- Identity Theft. 324
706. -- 799. (Reserved) 324
800. Definitions For Purposes Of The Taxpayers' Bill Of Rights. 324

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES

37.01.01 – Rules of Procedure of the Idaho Department of Water Resources and the Water Resource Board

Docket No. 37-0101-2601

205. Standards Of Conduct. 326
414. Ex Parte Communications. 326
415. Presiding Officer Legal Counsel. 327
4156. -- 509. (Reserved) 327
551. Venue, Facilities At Or For Hearing, And A.D.A. Requirements. 327

37.03.08 – Water Appropriation Rules

Docket No. 37-0308-2601

040. Processing Applications For Permit. 329

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.60 – Rules Governing License Plate Provisions

Docket No. 39-0260-2601

011. License Plate Provisions For All License Plates. 335
153. Provisions for Transporter Plates. 335
154. Provisions For Wrecker Plates. 336
155. Provisions For Special License Plate Program Prequalification And Application Procedures. . 336
200. License Plate Provisions For Special Plates. 337
202. Provisions For Personalized License Plates. 337
300. Provisions For Sample Plates. 339
405. Exempt Plate Display. 340
406. -- 407. (Reserved) 340
408. Exempt Plate Status. 340
409. Undercover Plate Status. 340

39.02.80 – Rules Governing Motor Carrier Financial Responsibility

Docket No. 39-0280-2601

001. Purpose. 342
002. Incorporation By Reference. 342
0032. -- 009. (Reserved) 342
010. Definitions. 342
011. -- 019. (Reserved) 342

020. Insurance Requirements. 342
021. CertificatesProof Of Insurance. 343

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.06 – Solid Waste Management Rules

Docket No. 58-0106-2601 (Fee Rule)

000. Legal Authority. 346
004. Applicability. 346
005. Definitions. 347
032. Tier II And Tier III Application And Plan Review And Approval. 351
062. -- 9935. (Reserved) 352
994. Commercial Solid Waste Siting License Fee. 352
995. Commercial Solid Waste Siting License Application. 353
996. Fee Schedule. 353
9967. -- 999. (Reserved) 355

IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS

62.01.01 – Idaho Rules of Administrative Procedure

Docket No. 62-0101-2601

000. Legal Authority (Rule 0). 357
001. Title And Scope (Rule 1). 357
002. Definitions (Rule 2). 357
003. Abbreviations (Rule 3). 357
004. Liberal Construction (Rule 4). 358
005. Communications With Agency (Rule 5). 358
006. Identification Of Communications (Rule 6). 358
007. Computation Of Time (Rule 7). 358
008. Fees And Remittances (Rule 8). 358
009. Compliance With Americans With Disabilities Act Requirements (Rule 9). 358
010. Practice Not Covered By Statute Or Rules (Rule 10). 358
011. Signatures. 358
0112. – 099. (Reserved) 358
100. Contrast Between Agency's Prosecutorial / investigative And Adjudicatory Functions (Rule 100). 359
101. Public Inquiries About Or Recommendations For Agency Issuance Of A Petition (Rule 101). 359
102. Agency Procedures After Issuance Of A Petition (Rule 102). 360
103. Assistance With Agency Head's Consideration Of Recommended Or Preliminary Order (Rule 103). 361
104 – 149. (Reserved) 361
150. Informal Dispositions, Generally (Rule 150). 361
151. Alternative Dispute Resolution Of Contested Cases (Rule 151). 362
152. Neutrals (Rule 152). 362
153. Confidentiality Of Settlement Negotiations (Rule 153). 362
154. Procedure For Notice Of Informal Disposition Occurring Prior To A Contested Case Proceeding (Rule 154). 362
155. Stipulations Regarding Facts (Rule 155). 362
156. Consent Orders And Other Settlements (Rule 156). 362
157. Inquiry About Negotiations (Rule 157). 363
158. Burdens Of Proof (Rule 158)Compliance With Law And Development Of Record. 363
159. Consent Orders And Settlements Not Binding (Rule 159). 363
160. Negotiations Do Not Exhaust Administrative Remedies (Rule 160). 363
161. – 199. (Reserved) 363
200. Parties To Contested Cases Listed (Rule 200). 363

201. Petitioners (Rule 201). 363
202. Respondents (Rule 202). 364
203. Intervenors (Rule 203). 364
204. Rights Of Parties And Of Agency Staff (Rule 204). 364
205. Withdrawal And Substitution Of Parties (Rule 205). 364
206. Persons Not Parties – Interested Persons (Rule 206). 364
207. Persons Not Parties – Public Witnesses (Rule 207). 364
208. – 224. (Reserved) 364
225. Initial Pleading – Listing Of, And Service Upon, Representatives (Rule 225). 364
226. Taking Of Appearances – Participation By Agency Staff – Use Of Agency Report Or Recommendation (Rule 226). 364
227. Representation Of Parties (Rule 227). 365
228. Attorney Representatives (Rule 228). 365
229. Substitution Of Representative (Rule 229). 365
230. Withdrawal Of Representative (Rule 230). 365
231. Conduct Required – Sanctions For Misconduct (Rule 231). 365
232. – 249. (Reserved) 365
250. Appointment Of Hearing Officers (Rule 250). 365
251. Disqualification (Rule 251). 366
252. Scope Of Authority Of Presiding Officers (Rule 252). 366
253. Constitutional Challenges To Statutes And Rules (Rule 253). 366
254. Other Challenges To Rules (Rule 254). 366
255. Ex Parte Communications (Rule 255). 366
256. – 299. (Reserved) 367
300. Pleadings – Naming (Rule 300). 367
301. Pleadings – Construction (Rule 301). 367
302. Pleadings – Form And Contents (Rule 302). 367
303. Answers – Specific Requirements (Rule 303). 368
304. Defective, Insufficient, Or Late Pleadings (Rule 304). 368
305. Amendments To Pleadings (Rule 305). 368
306. – 324. (Reserved) 368
325. Motions — Defined — Form And Contents — Time For Filing (Rule 325). 369
326. Special Motions (Rule 326). 369
327. Stay Of Agency Action (Rule 327). 370
328. Motions To Seal (Rule 328). 370
329. Defective, Insufficient, Or Late Motions And Other Submissions. 370
32930. – 349. (Reserved) 370
350. Filing –number Of Copies – Electronic Submission – Facsimile Machine Prohibited (Rule 350). 370
351. Service By Parties (Rule 351). 370
352. Service By Agency Or Presiding Officer (Rule 352). 370
353. When Service Complete (Rule 353). 371
354. Proof Of Service (Rule 354). 371
355. – 399. (Reserved) 371
400. Purposes Of The Scheduling Conference (Rule 400). 371
401. Notice Of Scheduling Conference (Rule 401). 371
402. Purposes Of The Prehearing Conference (Rule 402). 372
403. Orders Resulting From Conferences (Rule 403). 372
404. Other Status Conferences Before The Evidentiary Hearing (Rule 404). 372
405. Record Of Conferences (Rule 405). 372
406. – 424. (Reserved) 372
425. Default (Rule 425). 372

426. Continuance In Lieu Of Default (Rule 426). 373
427. Appearance At Hearing (Rule 427). 373
428. Inactive Cases (Rule 428). 373
429. – 449. (Reserved) 373
450. Kinds And Scope Of Discovery Listed (Rule 450). 373
451. When Discovery Authorization Not Required (Rule 451). 373
452. Rights To Discovery Reciprocal (Rule 452). 374
453. Subpoenas (Rule 453). 374
454. Filing And Service Of Discovery-related Documents (Rule 454). 374
455. Prepared Testimony And Exhibits (Rule 455). 374
456. Sanctions For Failure To Obey Order Compelling Discovery (Rule 456). 374
457. Protective Orders (Rule 457). 374
458. – 474. (Reserved) 374
475. Rules Of Evidence (Rule 475). 374
476. Evaluation Of Evidence (Rule 476). 374
477. Burden Of Proof (Rule 477). 374
478. Hearsay (Rule 478). 375
479. Official Notice (Rule 479). 375
480. Depositions And Prepared Testimony (Rule 480). 375
481. Other Written Evidence (Rule 481). 375
482. Objections -- Offers Of Proof (Rule 482). 375
483. Exhibits (Rule 483). 375
484. Polygraphs (Rule 484). 375
485. Experts (Rule 485). 375
486. Interpreters (Rule 486). 376
487. Adverse Inference (Rule 487). 376
488. – 499. (Reserved) 376
500. Notice Of Hearing (Rule 500). 376
501. How Hearings Held (Rule 501). 376
502. Conduct At Hearings (Rule 502). 376
503. Conference At Hearing (Rule 503). 377
504. Preliminary Procedure At Hearing (Rule 504). 377
505. Consolidation Of Proceedings (Rule 505). 377
506. Order Of Procedure (Rule 506). 377
507. Testimony Under Oath (Rule 507). 377
508. Presiding Officer's Calling Or Examining Of Witnesses (Rule 508). 377
509. Sequestration Of Witnesses (Rule 509). 377
510. Parties And Persons With Similar Interests (Rule 510). 377
511. Continuance Of Hearing (Rule 511). 377
512. Rulings At Hearings (Rule 512). 378
513. Oral Argument (Rule 513). 378
514. Briefs – Proposed Orders – Position Statements (Rule 514). 378
515. – 599. (Reserved) 378
600. Agency Record (Rule 600). 378
601. Recording Or Reporting Of Hearings (Rule 601). 378
602. – 624. (Reserved) 378
625. Recommended Orders (Rule 625). 378
626. Preliminary Orders (Rule 626). 380
627. Final Orders (Rule 627). 381
628. Orders Regarding Costs And/or Fees (Rule 628). 382
629. Order Not Designated (Rule 629). 383
630. Modification Of Orders On Presiding Officer's And Agency Head's Own Motion (Rule 630). 383

631. Clarification Of Orders (Rule 631). 383
632. Stay Of Orders (Rule 632). 383
633. Voiding Of Orders (Rule 633). 383
634. Orders To Dismiss. 384
6345. – 649. (Reserved) 384
650. Judicial Review, Generally (Rule 650). 384
651. Petition For Judicial Review (Rule 651). 384
652. – 699. (Reserved) 384
700. Intervention Generally (Rule 700). 384
701. Form And Contents Of Petitions To Intervene (Rule 701). 384
702. Timely Filing Of Petitions To Intervene (Rule 702). 384
703. Opposition To Petitions To Intervene (Rule 703). 385
704. Hearing On Petitions To Intervene (Rule 704). 385
705. Orders On Petitions To Intervene (Rule 705). 385
706. Denial Of Intervention Does Not Preclude Participation (Rule 706). 385
707. – 724. (Reserved) 385
725. Form And Contents Of Petitions For Declaratory Rulings (Rule 725). 385
726. Service And Notice Of Petition For Declaratory Ruling (Rule 726). 386
727. Proceedings (Rule 727). 386
728. Speedy Hearing Permitted (Rule 728). 386
729. Limitations (Rule 729). 386
730. – 749. (Reserved) 387
750. Service Of Emergency Order (Rule 750). 387
751. Hearing On Emergency Order (Rule 751). 387
752. – 799. (Reserved) 388
800. Other Agency-specific Contested Case Rules (Rule 800). 388
801. – 999. (Reserved) 388

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT
TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The proposed rule public hearing request deadline is October 21, 2026, unless otherwise posted.
The proposed rule written comment submission deadline is October 28, 2026, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.

IDAPA 02 – DEPARTMENT OF AGRICULTURE
PO Box 7249, Boise, ID 83707

****02-0107-2601 (Fee Rule), Rules Governing Hemp***. (*PH) To align chapter with recent legislation, updates in this rulemaking relate to: the retail sale of hemp derived products for human ingestion or inhalation; clarifying non-negligent violations in the production of hemp; and establishing fees for retailers of hemp derived products.
****02-0214-2601 (Fee Rule), Rules for Weights and Measures***. (*PH) Current fees being 66% below national average, rule changes aim to stabilize and match real costs of program implementation, which include personnel costs and capital replacement of specialized equipment and vehicles.
02-0405-2601, Rules Governing Grade A Milk and Manufacture Grade Milk. Proposed updates include documents incorporated by reference and implementing amendments to state law authorizing testing of milk by the department in defining the process for additional quality parameters.
02-0609-2601, Rules Governing Invasive Species and Noxious Weeds. Adds Spiny cocklebur, a non-native plant posing invasive tendencies and threats to agriculture and native habitats, to Idaho's Noxious Weed list for authority purposes of treatment and control, as well as technical edits.

IDAPA 08 – STATE BOARD OF EDUCATION
PO Box 83720, Boise, ID 83720-0037

08-0111-2601, Registration of Postsecondary Educational Institutions and Proprietary Schools. To improve clarity and consistency with current practice, the purpose of these updates is to remove the outdated term "regional," and provisions associated with surety bond exemptions.
08.02.02 – Rules Governing Uniformity.
08-0202-2601, This rulemaking: revises bullying prevention, reporting, and response requirements; and updates educator preparation, certification, and alternative authorization provisions to comport with recently enacted statutory changes and align with current state and federal law.
08-0202-2602, Intended change seeks to update the Operating Procedures for Idaho Public Driver Education Programs document incorporated by reference to improve consistency in the application of driver education program standards.
08-0202-2603, Proposed updates center around removing the outdated modifier "regional" from references to accreditation to ensure consistent application for the purposes of educator certification.
08.02.03 – Rules Governing Thoroughness.
08-0203-2601, Rule edits aim to clarify: civics and government proficiency provisions, including recognition of alternate pathways; digital literacy graduation credit, which applies after January 1, 2028, graduation; and participation and exemption language for newly enrolled limited English proficient students with respect to statewide assessments.
08-0202-2602, Proposed rule changes update incorporated by reference material to reflect newly adopted, revised, or restored core academic content standards approved by the State Board of Education, including Digital Literacy, Artificial Intelligence, Civics, Mathematics, English Language Arts, and Science, also College and Career Readiness Competencies language.
08-0601-2601 (New Chapter), Rules Governing the K-12 and Postsecondary Education System. (Temp & Prop) To

uphold Idaho's Fairness in Women's Sports Act, this rule chapter establishes procedures for schools, local education agencies, and public institutions of higher education to receive, review, document, and resolve disputes regarding a student's biological sex for purposes of athletic participation pursuant to state law.

IDAPA 11 – IDAHO STATE POLICE / PEACE OFFICER STANDARDS AND TRAINING COUNCIL
700 S Stratford Dr, Meridian, ID 83642

11.11.01 – Rules of the Idaho Peace Officer Standards and Training Council.
****11-1101-2601***, (*PH) Proposed changes intend to reduce regulatory burden by eliminating unnecessary or outdated requirements and clarifying existing requirements where additional guidance is needed and thereby streamlining the regulatory process while maintaining the standards necessary for effective peace officer training, certification, and public safety.
****11-1101-2603***, (Temp & Prop) (*PH) Modifications to certification requirements such as: reducing the existing college credit requirements for higher-level detention officer certifications; establishing specific ongoing training requirements to retain Misdemeanor Probation Officer certification; incorporating instructor credit requirements for maintaining basic certification; and combining two separate disciplines into a single one, Juvenile Justice Officer, all reduce regulatory burden and contribute to retention and ongoing development of the law enforcement profession.

IDAPA 13 – IDAHO DEPARTMENT OF FISH AND GAME
PO Box 25, Boise, ID 83707

13-0109-2601, Rules Governing Taking of Game Birds and Upland Game Animals. Changes allow for electronic tagging options to certain game birds to modernize processes and eliminate the need for a paper tag in the field.
13-0110-2601, Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife. Revision would make moving an animal carcass between Game Management Units within a Chronic Wasting Disease management zone illegal whether salvaged or taken through hunting.

IDAPA 15 – OFFICE OF THE GOVERNOR / IDAHO STATE LIQUOR DIVISION
1349 E Beechcraft Ct, Boise, ID 83716

15-1001-2601, Rules of the Idaho State Liquor Division. Proposed changes seek to eliminate the Resident Supplier Representative provision in its entirety to proactively address potential constitutional challenges.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
PO Box 83720, Boise, ID 83720-0036

****16-0219-2601, Idaho Food Code***. (*PH) The proposed rule implements recent changes enacted in the Idaho Direct-to-Consumers Commerce Act.
****16-0322-2601, Residential Assisted Living Facilities***. (Temp & Prop) (*PH) Based on a review of a 2025 statutory amendment, the Department proposes to eliminate a $500 building evaluation fee due to not having clear legal authority to charge the fee.
****16-0326-2601, Medicaid Plan Benefits***. (*PH) These rule changes, which do not create new services, are proposed to align with session laws from the Idaho Legislature, are responsive to CMS and stakeholder feedback, relieve burden on providers, simplify and clarify unintentional ambiguity, and position the Department for more efficient operation of the State Medicaid program and to exercise effective utilization management.
****16-0506-2601, Criminal History and Background Checks***. (*PH) To implement recently effective changes codified in state law, this chapter was streamlined to address mainly procedural items that are not specifically addressed in statute and to eliminate duplication.
****16-0601-2601, Child and Family Services***. (*PH) These rulemaking updates pertain to the age of eligible young adults to access extended foster care, visitation between parents and children placed in foster care, the usage of death benefits for children in foster care, and general non-substantive language cleanup as a result of legislation passed during the 2026 legislative session.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
Forestry Assistance Bureau, 3284 W Industrial Loop, Coeur d'Alene, ID 83815

****20-0201-2601, Rules Pertaining to the Idaho Forest Practices Act***. (*PH) Rule changes establish provisions related to the timely salvage of dead, dying, or threatened timber when practicable, on non-private forest lands of 2,000 contiguous acres or more, implementing Idaho Code.

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES
PO Box 83720, Boise, ID 83720-0063

24-0501-2601 (Fee Rule), Rules of the Board of Drinking Water and Wastewater Professionals. (*PH) To address the Board's negative cash balance as required by statute to maintain a cash balance of 30% to 150%, this proposed rule increases the licensure fee.
24-3910-2601, Rules of the Idaho Electrical Board. (*PH) The intent of this rulemaking is to add more exceptions and exemptions in permit expiration, practice standards, and revisions to the Idaho Electrical Code, to allow for greater flexibility and potential decreased business costs.

IDAPA 26 – IDAHO DEPARTMENT OF PARKS AND RECREATION
5657 Warm Springs Ave, Boise, ID 83716

26-0120-2601 (Fee Rule), Rules Governing the Administration of Park and Recreation Areas and Facilities. To align with economic climate, the Department is considering updating fees for Electric, Full Hook-up, and Companion Campsites, as well as Non-campers Shower Use.

IDAPA 28 – IDAHO DEPARTMENT OF COMMERCE
700 W State St, Boise, ID 83702

28-0401-2601, Rules Governing the Idaho Reimbursement Incentive Act. Proposed changes from the Department are limited to technical, formatting, or clarifying revisions to assist in administration of the Idaho Reimbursement Incentive Act, including application, agreement, and compliance requirements.

IDAPA 35 – STATE TAX COMMISSION
PO Box 36, Boise, ID 83722-0036

35-0103-2602, Property Tax Administrative Rules. (Temp & Prop) (*PH) The intent of these changes is to: identify the retail customer; prevent non-typical rates or contractual arrangements from altering the classification as a retail sale; and prevent the quantity of reported kWh sales from being reduced or netted against other transactions between the parties for Kilowatt Hours and Therms Tax computation.
35-0201-2601, Tax Commission Administration and Enforcement Rules. (*PH) After performing a critical and comprehensive review of the governing statutes and existing rule chapter to assess whether content of the rule is still necessary, the Commission plans to remove redundant and unnecessary language to assist in streamlining the rules.

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES
PO Box 83720, Boise, ID 83720-0098

37-0101-2601, Rules of Procedure of the Idaho Department of Water Resources and the Water Resource Board. This rulemaking explores necessity of rule chapter content, incorporates fairness and efficiency improvements, and aims to prevent bias in contested case proceedings.
37-0308-2601, Water Appropriation Rules. Rule amendments seek to streamline and improve the process for requesting additional information from water right applicants, such as making the initial request for additional information within 45 days of receiving the application.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
PO Box 7129, Boise, ID 83707-1129

39-0260-2601, Rules Governing License Plate Provisions. To comport with legislative changes from the 2026 session, these proposed rule changes look to eliminate all references to registration stickers and license plate expiration.
39-0280-2601, Rules Governing Motor Carrier Financial Responsibility. This rulemaking removes several outdated or statutorily duplicative rule provisions after undergoing a full agency review of the chapter.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
1410 N Hilton St, Boise, ID 83706

58-0106-2601 (Fee Rule), Solid Waste Management Rules. As a result of legislative action that removed municipal solid waste regulatory oversight from public health districts, rulemaking to transfer responsibilities to DEQ was necessary and includes: enforcing statutory and rule based solid waste management operational requirements; review and approval of operations plans, closure plans and activities, post-closure plans and activities, and corrective action plans; and the establishment and collection of fees as developed by industry stakeholders.

IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS
350 N 9th St Ste 300, Boise, ID 83702

62-0101-2601, Idaho Rules of Administrative Procedure. In accordance with the 8-year rule review cycle, this

rulemaking was conducted to align the chapter with style and format guidance and updates/simplifies language, as well as making experience-based updates to various rules.

Please refer to the Idaho Administrative Bulletin **October 7, 2026, Volume 26-10**, for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and agency contact information.

***Electronic issues of the Idaho Administrative Bulletin can be viewed at* www.adminrules.idaho.gov/**

Office of the Administrative Rules Coordinator, Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: 208-334-3900; Email: **adminrules@dfm.idaho.gov**

CUMULATIVE RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES

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

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

Office of the Administrative Rules Coordinator
Division of Financial Management

April 2, 2026 – October 7, 2026

(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

02.01.07, Rules Governing Hemp

02-0107-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-10
02-0107-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

02.02.14, Rules for Weights and Measures

02-0214-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-10
02-0214-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

02.04.05, Rules Governing Grade A Milk and Manufacture Grade Milk

02-0405-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
02-0405-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

02.06.09, Rules Governing Invasive Species and Noxious Weeds

02-0609-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
02-0609-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 08 – IDAHO STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION

08.01.11, Registration of Postsecondary Educational Institutions and Proprietary Schools

08-0111-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
08-0111-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

08.02.02, Rules Governing Uniformity

08-0202-2603 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
08-0202-2603 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

08-0202-2602 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
08-0202-2602 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

08-0202-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
08-0202-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

08.02.03, Rules Governing Thoroughness

08-0203-2603 Notice of Temporary and Proposed Rule, Bulletin Vol. 26-8 (eff. 8-5-26)T

08-0203-2602 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
08-0203-2602 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

08-0203-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
08-0203-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

08.06.01, Rules Governing the K-12 and Postsecondary Education System

08-0601-2601 Notice of Temporary and Proposed Rule (New Chapter), Bulletin Vol. 26-10 (eff. 8-12-26)T

IDAPA 11 – IDAHO STATE POLICE

11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

11-1101-2603 Notice of Temporary and Proposed Rule, Bulletin Vol. 26-10 (eff. 10-7-26)T

11-1101-2602 Notice of Rescission of Temporary Rule and Vacation of Proposed Rulemaking, Bulletin Vol. 26-10
11-1101-2602 Notice of Temporary and Proposed Rule, Bulletin Vol. 26-7 (eff. 7-1-26)T

11-1101-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
11-1101-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

13-0000-2600P5 Notice of Adopted / Amended Proclamations for Calendar Year 2026, Bulletin Vol. 26-8
13-0000-2600P4 Notice of Adopted / Amended Proclamations for Calendar Year 2026, Bulletin Vol. 26-7
13-0000-2600P3 Notice of Adopted / Amended Proclamations for Calendar Year 2026, Bulletin Vol. 26-6
13-0000-2600P2 Notice of Adopted / Amended Proclamations for Calendar Year 2026, Bulletin Vol. 26-4
13-0000-2600P1 Notice of Adoption of Proclamation for Calendar Year 2026, Bulletin Vol. 26-2

13.01.09, Rules Governing Taking of Game Birds and Upland Game Animals

13-0109-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
13-0109-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-4

13.01.10, Rules Governing Importation, Possession, Release, Sale, or Salvage of Wildlife

13-0110-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
13-0110-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

IDAPA 15 – OFFICE OF THE GOVERNOR

Executive Orders of the Governor

Executive Order No. 2026-06 Celebrating America250 and Honoring the Enduring Spirit of Liberty Through Additional Leave for State Employees, Bulletin Vol. 26-7
Executive Order No. 2026-05 Creation of the State Workforce Pell Coordinating Council, Bulletin Vol. 26-7
Executive Order No. 2026-04 Promoting Transparent, Timely, and Good-Faith Information Sharing Between Executive and Legislative Branches, Bulletin Vol. 26-7
Executive Order No. 2026-03 Declaring Idaho's Intent To Opt-In to the Federal Scholarship Tax Credit Program, Bulletin Vol. 26-3
Executive Order No. 2026-02 Recommissioning the Idaho Governor's Trophy, Bulletin Vol. 26-3
Executive Order No. 2026-01 The Idaho Act; Repealing and Replacing Executive Order 2025-05, Bulletin Vol. 26-2

Idaho State Liquor Division

15.10.01, Rules of the Idaho State Liquor Division

15-1001-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
15-1001-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.19, Idaho Food Code

16-0219-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
16-0219-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

16.03.22, Residential Assisted Living Facilities

16-0322-2601 Notice of Temporary and Proposed Rule, Bulletin Vol. 26-10 (eff. 7-1-26)T

16.03.26, Medicaid Plan Benefits

16-0326-26L2 Notice of Revocation of Final Rules, Bulletin Vol. 26-10

16-0326-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
16-0326-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

16.05.06, Criminal History and Background Checks

16-0506-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
16-0506-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

16.06.01, Child and Family Services

16-0601-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
16-0601-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 20 – DEPARTMENT OF LANDS

20.02.01, Rules Pertaining to the Idaho Forest Practices Act

20-0201-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10

20-0201-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.01.01, Rules of the Board of Architects and Landscape Architects

24-0101-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-8

24-0101-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals

24-0501-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-10

24-0501-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

24.10.01, Rules of the State Board of Optometry

24-1001-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8

24-1001-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

24.13.01, Rules Governing the Physical Therapy Licensure Board

24-1301-2601 *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5 (rulemaking terminated by agency)*

24.15.01, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists

24-1501-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8

24-1501-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

24.16.01, Rules of Denturitry

24-1601-26L1 Notice of Legislative Action Affecting the State Board of Denturitry and Transferring Administrative Rules to the State Board of Dentistry, House Bill 935, Session Law Chapter 298 – Bulletin Vol. 26-9 (eff. 7-1-26)

24.26.01, Rules of Midwifery

24-2601-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-9

24-2601-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

24.30.01, Idaho Accountancy Rules

24-3001-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8

24-3001-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

24.32.01, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

24-3201-2601 *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6 (rulemaking terminated by agency)*

24.34.01, Rules of the Idaho Board of Nursing

24-3401-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-9

24-3401-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

24.39.10, Rules of the Idaho Electrical Board

24-3910-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10

24-3910-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities

26-0120-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-10

26-0120-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-8

IDAPA 28 – DEPARTMENT OF COMMERCE

28.04.01, Rules Governing the Idaho Reimbursement Incentive Act

28-0401-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10

28-0401-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 29 – IDAHO POTATO COMMISSION

29.01.01, Rules of the Idaho Potato Commission

29-0101-2601 *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5 (rulemaking terminated by agency)*

IDAPA 31 – PUBLIC UTILITIES COMMISSION

31.01.01, Rules of Procedure of the Idaho Public Utilities Commission

31-0101-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-9
31-0101-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

31.36.01, Policies and Presumptions for Small Water Companies

31-3601-2601 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 26-9
31-3601-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

IDAPA 34 – SECRETARY OF STATE

34.03.01, Rules Implementing the Sunshine Law

34-0301-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8
34-0301-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

34.04.02, Rules Governing Business Entity Names

34-0402-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8
34-0402-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

34.05.01, Rules Governing Farm Products Central Filing System

34-0501-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8
34-0501-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

34.05.02, Rules Governing Liens in Crops for Seed or Liens in Crops for Farm Labor

34-0502-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8
34-0502-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

34.05.03, Rules Governing Requests for Information - Form UCC-4 -Fees

34-0503-2601 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 26-8
34-0503-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

34.05.06, Rules Governing Lien Filings Under the UCC

34-0506-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8
34-0506-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

34.06.01, Rules Governing the Electronic Recording of Real Property

34-0601-2601 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 26-8
34-0601-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

34.07.01, Rules Governing Notarial Acts Performed for Remotely Located Individuals

34-0701-2601 *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6 (rulemaking terminated by agency)*

IDAPA 35 – STATE TAX COMMISSION

35.01.01, Income Tax Administrative Rules

35-0101-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-9
35-0101-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

35.01.03, Property Tax Administrative Rules

35-0103-2602 Notice of Temporary and Proposed Rule, Bulletin Vol. 26-10 (eff. 9-10-26)T

35-0103-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-9
35-0103-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

35.02.01, Tax Commission Administration and Enforcement Rules

35-0201-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
35-0201-2601 (Second) Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-8
35-0201-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

IDAPA 37 – DEPARTMENT OF WATER RESOURCES

37.01.01, Rules of Procedure of the Idaho Department of Water Resources and the Water Resource Board

37-0101-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
37-0101-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

37.03.08, Water Appropriation Rules

37-0308-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
37-0308-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.60, Rules Governing License Plate Provisions

39-0260-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
39-0260-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

39.02.80, Rules Governing Motor Carrier Financial Responsibility

39-0280-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-10
39-0280-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Loads (TMDLs):

58-0000-2603 Notice of Final Decision, Upper Salmon River Subbasin Temperature Total Maximum Daily Load (TMDL) for the Poll Creek Assessment Unit (ID17060201SL085_03), Bulletin Vol. 26-8
58-0000-2602 Notice of Final Decision, Pahsimeroi River Subbasin Temperature and Sediment Total Maximum Daily Loads (TMDLs) and Five-Year Review (HUC 17060202), Bulletin Vol. 26-8
58-0000-2601 Notice of Final Decision, Jordan Creek Mercury Total Maximum Daily Load (TMDL) (HUC 17050108), Bulletin Vol. 26-8

58.01.01, Rules for the Control of Air Pollution in Idaho

58-0101-2603 Notice of Proposed Rulemaking, Bulletin Vol. 26-9

58-0101-2602 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-9
58-0101-2602 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-4

58-0101-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-9
58-0101-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-4

58.01.02, Water Quality Standards

58-0102-2602 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-8

58-0102-2601 Notice of Meeting of the Idaho Board of Environmental Quality, Bulletin Vol. 26-8
58-0102-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8
58-0102-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-4

58.01.05, Rules and Standards for Hazardous Waste

58-0105-2601 Notice of Proposed Rulemaking, Bulletin Vol. 26-8

58.01.06, Solid Waste Management Rules

58-0106-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-10
58-0106-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-7

58.01.08, Idaho Rules for Public Drinking Water Systems

58-0108-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-9
58-0108-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-4

***58.01.11*, Groundwater Quality Rule**

58-0111-2601 *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-5 (rulemaking terminated by agency)*

***58.01.13*, Rules for Ore Processing by Cyanidation**

58-0113-2502 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-9

58-0113-2502 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 25-12

***58.01.17*, Recycled Water Rules**

58-0117-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-9

IDAPA 62 – OFFICE OF ADMINISTRATIVE HEARINGS

***62.01.01*, Idaho Rules of Administrative Procedure**

62-0101-2601 Notice of Proposed Rulemaking (Fee Rule), Bulletin Vol. 26-10

62-0101-2601 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 26-6

Subject Index

A

A&D Waiver Services
- Coverage & Limitations 187
- A&D Case Management 190
- Adult Day Health 187
- Adult Residential Care 187
- Attendant Care 188
- Chore Services 188
- Companion Services 188
- Consultation (Self-Direction) 188
- Day Habilitation 189
- Environmental Accessibility Adaptations 188
- Home-Delivered Meals 188
- Homemaker Services 188
- Non-Medical Transportation (NMT) 188
- Personal Emergency Response System (PERS) 189
- Residential Habilitation 189
- Respite 189
- Skilled Nursing 189
- Specialized Medical Equipment & Supplies 187
- Supported Employment 189
- Transition Services 189
- Definitions 186
- A&D Waiver Services 186
- Employer of Fact 187
- Employer of Record 187
- Fiscal Intermediary 187
- Procedural Requirements 190
- Individual Service Plan 190
- Provider Notification 191
- Provider Records 190
- Provider Qualifications & Duties 191
- A&D Case Management 193
- Adult Day Health 192
- Adult Residential Care 192
- Attendant Care & Homemaker 192
- Chore Service 193
- Consultation 192
- Day Habilitation 192
- Electronic Visit Verification (EVV) Compliance 193
- Employment Status 191
- Environmental Accessibility Adaptations 192
- Fiscal Intermediary Services (FI) 191
- Home-Delivered Meals 192
- Homemaker Services 192
- Non-Medical Transportation 192
- PERS 192
- Provider Qualifications 191
- Quality Assurance (QA) 192
- Rates 193
- Residential Habilitation 192
- Respite 193
- Specialized Medical Equipment & Supplies 192
- Supported Employment 193
- Transition Services 193
- Provider Reimbursement 193

Abbreviations 357
- ADA 357
- ADR 357
- APA 357
- IRAP 357

Accounting & Reporting 258
Accredited Institution 68
Administrate Review For Adoption Assistance 279
- Request for Reconsideration 279

Administrative Appeals 301, 312
Administrative Procedures Act 89
Administrative Review For Guardianship Assistance 281
Adoption & Guardianship Assistance 277
Adoption Assistance Program Agreement 278
- Adoption Assistance Follows the Child 279
- Agreement Specifications 278
- Suspension of Adoption Assistance 279
- Termination of Adoption Assistance 278

Adoption Services 267
Adoption Services Policy 267
Adult DD Services
- Coverage & Limitations 200
- Definitions 199
- Clinical Review 199
- Exception Review 199
- Health 200
- Health Risks 200
- Safety 200
- Safety Risks 200
- Procedural Requirements 200
- Service Plan Requirements 200
- Addendum to the Service Plan 202
- Annual Service Reauthorization 202
- Assessment 201
- Informed Choice 201
- No Duplication of Services 201
- Notifications 203
- Paid Plan Developer Qualifications 201
- Plan Development 201
- Plan Monitoring 201
- Provider Implementation Plan (PIP) 202
- Provider Status Reviews 201

Adult DD Waiver Services
- Participant Eligibility 207
- Adult DD Waiver Limits 207
- Age 207
- DD Waiver Eligibility 207
- Eligibility 207
- Notifications 207
- Redetermination 207
- Provider Qualifications & Duties 207
- Adult Day Health 209
- Behavior Consultation or Crisis Management 209
- Chore Services 208
- Home-Delivered Meals 208
- Non-Medical Transportation 208
- PERS 208
- Residential Habilitation – CFH 208
- Residential Habilitation – Supported Living 208
- Respite Care 208
- Specialized Medical Equipment 208
- Supported Employment 208
- Transition Services 209

Adverse Inference 376
Advising Consumers Of Health Risk Of Raw Or Undercooked Foods 132
- Consumption of Animal Foods That are Raw, Undercooked, or not Otherwise Processed to Eliminate Pathogens 132
- How to Inform Consumers of Health Risk 132

Age 110
- Eighteen (18) Years of Age 110
- Twenty-One (21) Years of Age 110

Agency Procedures After Issuance Of A Petition 360
- Presiding Officers 360
- The Agency Attorney 360
- The Agency Head 360
- The Agency Staff 360

Agency Record 378
- Presiding Officers 378
- Requirement 378

Agency Responsibilities 233
- Applicant Screening 234
- Change in Name or Ownership 233
- Discovery of Criminal Convictions or Disqualifying Records After Clearance is Issued 234
- Employment Determination 234
- Initial Registration 233
- Retention of Records 234
- Review Background Check Results 234
- Time Frames For Compliance 234

Agreements 305
- Agreement 305
- Incentive Agreement 305

Alternate (Out-Of-Home) Care 254
Alternate Care Case Management 256
- Consent for Medical Care 257
- Contact with Child 257
- Discharge Planning 257
- Financial & Support Services 257
- Information for Alternate Care

Provider 256
Preparation Provided to the Placement 256
Transition Planning 257
Alternate Routes To Certification
Alternative Authorization -- Content Specialist 61
Alternative Authorization - Pupil Service Staff 61
Alternative Authorization -- Teacher to New Certification 60
Alternative Authorization - Certification 60
Alternative Dispute Resolution Of Contested Cases 362
Amendments To Pleadings 368
Annual Reporting By Applicant
Tax Commission Letter 306
Annual Reporting By Department 306
Actual Costs and Benefits 307
Economic Impact to State 306
Estimated Costs and Benefits 307
Estimated Tax Credit Commitments 306
Submittal of Report 307
Successes 306
Answers – Specific Requirements 368
Content 368
Failure to File an Answer or Motion 368
Motions Directed to the Answer 368
Motions in Lieu of Answer 368
Time for filing 368
Appearance At Hearing 373
Applicability 128, 346
Applicants Receiving A Department Enhanced Background Check 237
Applicants Receiving A Department Enhanced Clearance
Adoptive Parent Applicants 237
Behavioral Health Programs 237
Certified Family Homes 237
Children's Agency Facility Staff 237
Children's Residential Care Facilities 237
Children's Therapeutic Outdoor Programs 237
Citizen Review Panel Members 238
Idaho Child Care Program (ICCP) 238
Licensed Day Care 238
Licensed Foster Care 238
Mental Health Services 238
Substance Use Disorders Services 238
Application For A Background Check 236
Application Form 237
Disclosures 237
Failure to Disclose Information 237
Application Procedures / Professional Development 62
Credit 62
Professional Development Plans 63
State Board of Education Requirements for Professional Growth 62
Application Process 302
Application 303
Application Recommendation Letter 304
Application Schedule 304
Economic Advisory Council 304
Inquiry 302
Pre-Application Review Process 303
Pre-Application Schedule 304
Required Information 303
Technical Review - Application 304
Technical Review - Pre-Application 304
Application To Be Adoptive Parent(s) 269
Application for Subsequent Adoptions 270
Denial of Application 270
Initial Application 269
Orientation of Potential Applicants 269
Psychological Evaluation 269
Appointment Of Hearing Officers 365
Office of Administrative Hearings 365
Other Hearing Officers 365
Assessment In The Public Schools 73
Achievement Standards 75
Comprehensive Assessment Program 74
Comprehensive Assessment Program Schedule 75
Content 73
Costs of Additional Services 75
Costs Paid by the State 75
Demographic Information 76
Dual Enrollment 76
Philosophy 73
Purposes 73
Scoring & Report Formats 74
Test Security, Validity & Reliability 75
Testing Population 73
Assessment Of Tax 317
Admission to Understatement of Tax 317
The Record of Assessment 317
Assigning Reports For Safety Assessment 260
Child Reports 260
Infant Reports 260
Assistance With Agency Head's Consideration Of Recommended Or Preliminary Order 361
Assistance With Agency Head's Consideration Of Recommended Or Preliminary Order
The Agency Attorney 361
The Agency Head 361
The Agency Staff 361
Attorney Representatives 365
Audiology Services
Coverage & Limitations 172
Binaural Hearing Aids 172
Implantable Hearing Aids 172
Non-Implantable Hearing Aids 172
Audit 307
Auditing Payments For Milk Or Cream 34
Audit Committee 34
Audit Committee Investigation and Report 34
Commencement of Audit 34
Investigatory Authority 34
Non-Waiver 35
Notifications and Responses to an Audit 34
Split Samples 34
Authority For Alternate Care Services 255
Department Custody 255
Voluntary Placement 255
Availability To Provide Services Pending Completion Of The Background Check 239
Employees of Providers, Contractors, Bureau of Emergency Medical Services (EMS), or the Department 239
Individuals Licensed or Certified by the Department 239

B

Background Check Clearance 239
Clearance 240
Clearance Types 240
Revocation of Clearance 240
Background Check Requirements
Background Check Compliance 138
Providers Subject to Background Check Requirements 139
Background Check Results 239
Department Employees That Have Access to the Internal Revenue Service Federal Tax Information File 239
Findings for Court-Required Criminal History & Background Checks 239
Results of Background Checks 239
Background Checks 138
Independent CHIS Providers 139
Subsequent Convictions, Charges, or Investigations 139

Variances 138
Waiver for CSW 138
Becoming an Adoptive Parent 269
Briefs -- Proposed Orders – Position Statements 378
Bullying, Harassment & Intimidation Prevention & Response 63
Dissemination of Information 63
Graduated Consequences 64
Intervention 64
Professional Development 63
Reporting 64
Burden Of Proof 374
Burdens Of Proof 363

C

Canine Evaluator Certification 97
Certification 97
Eligibility 97
Retaining Certification 97
Revocation 98
Case Management
Coverage & Limitations 166
Community Re-entry Services 167
Duplication 167
Home Visiting Coverage 166
Provider Qualifications & Duties 167
Certificates Issued To Applicants From Accredited Institutions 68
Certificates Of Insurance
Coverage 343
Filing 343
Forms 343
Certifications For Part-Time Officers 96, 116
Decertification 96, 117
Lapse of Certification 96, 117
Requirements 96, 116
Certified Adoption Professional 273
Certified Adoption Professional Requirements 274
Adoption Training 274
Application Fee 274
Background Clearance 274
College Degree 274
Experience 274
Insurance 274
License 274
References 274
Charges For Special Request Testing, Examination, Or Re-Examination 30
Fee Collection 30
Mileage Charges 30
Personnel Charges 30
Child Custody Investigations For The District Court 267
Conduct of the Assessment 267
Department Clients 267
Report to Court 267
Requests From Private Attorney 267
Child Protection Central Registry 262
Child Protection Safety & Comprehensive Assessments 261
Assessment of a Child 261
Assessment of the Family 262
Collateral Interviews 262
Completion of a Comprehensive Assessment 262
Notification of the Person Who Made the Referral 262
Child Protection Services 260
Children's DD HCBS State Plan Option
Eligibility Determination 203
Annual Re-Evaluation 203
Individualized Budget Methodology 203
Lapse in Service 203
CHIS
Provider Qualifications And Duties 167
Children Birth to Three Years of Age 169
Continuing Training Requirements 169
Crisis Intervention Technician 167
Evidence-Based Model (EBM) Intervention Paraprofessional 168
Evidence-Based Model (EBM) Intervention Professional 168
Evidence-Based Model (EBM) Intervention Specialist 168
Independent CHIS Provider 168
Intervention Professional 168
Intervention Specialist 168
Intervention Technician 167
Circle Of Supports
Focus 214
Members 214
Natural Supports 214
Circle Of Supports (COS) 214
Duties 214
Selection 214
Clarification Of Orders 383
Collection of Child Support 258
Commercial Solid Waste Siting License Application 353
Application Format 353
Copies of Application 353
Location 353
Commercial Solid Waste Siting License Fee 352
Commercial Solid Waste Siting License Fee Criteria 352
Commercial Solid Waste Siting License Fee Not Refundable 353
Commercial Solid Waste Siting License Fee Scale 352
Expansion or Enlargement of a Commercial Solid Waste Facility 353
Notification of Adjustment of Fee 353
Communications With Agency 358
Community Support Worker (CSW) Limitations 219
FDCS 219
SDCS 219
Work Limit 219
Completing The Adoption Home Study 270
Content 270
Interviews 270
Compliance With Americans With Disabilities Act Requirements 358
Compliance With Law & Development Of Record 363
Compliance, Reporting, and Audit 306
Audit 306
Continuation and Termination 306
Known or Expected Detriments 306
Reporting 306
Computation Of Time 358
Conditions for Adoption Assistance 277
Special Needs Criteria 277
Conditions For Guardianship Assistance 279
Assessment of Suitability 279
Eligibility for Guardianship Assistance 279
Guardianship and Foster Care Licensure 280
Conditions For Payment 147
Acceptance of State Payment 148
Comply With All Applicable Regulations 147
Comply With the Idaho Medicaid Provider Handbook 148
Follow-up Communication 148
Medical Care Provided Outside the State of Idaho 148
Ordering, Referring, & Prescribing Providers (ORP) 148
Participant Eligibility 147
Prior Authorization (PA) 148
Referrals 148
Conduct At Hearings 376
Abusive Or Improper Questioning Or Argument 376
Audio-Visual Recordings 377
Conduct 376
Sanctions for Disruptive Conduct 377
Conduct Required – Sanctions For Misconduct 365
Conference At Hearing 377
Confidentiality Of Settlement Negotiations 362
Conflict Of Interest 304
Consent Orders And Other Settlements 362
Consideration Of Consent Orders And Other Settlements By

Presiding Officers 363
Negotiations 362
Presentation of Consent Order or Other Settlement to Agency Head 362
Suspension of Deadlines 363
Consent Orders And Settlements Not Binding 363
Considerations For Placement In Alternative Care 255
Family Assessment 255
Consolidation Of Proceedings 377
Constitutional Challenges To Statutes & Rules 366
Continuance In Lieu Of Default 373
Continuance Of Hearing 377
Continuation Of CDCS Option 213
Adherence to Risk & Safety Back-Up Plans 214
Adherence to the Participant's SSP 214
Health & Safety Choices 214
Involuntary Removal 214
Required Supports 214
Continuation Of Tax Credit 307
Contrast Between Agency's Prosecutorial / investigative And Adjudicatory Functions
Adjudicatory Function 359
Prosecutorial/Investigative Function 359
Contrast Between Agency's Prosecutorial/investigative And Adjudicatory Functions 359
Core Family & Children's Services 251
Adoption Services 252
Alternate Care (Placement) Services 251
Assessment & Safety/Case Planning Services 251
Independent Living 251
Interstate Compact on Out-of-State Placements 251
Prevention Services 251
Court-Ordered Child Protection Safety Assessment 266
Criminal History & Background Check Requirements 248
Cwd Management Restrictions 122
Designation of CWD Management Zone 122
Disposal of Carcasses or Parts in Violation 122
Exceptions 122
Prohibitions 122

D

Date A Child Entered Foster Care 256
DD Determination Standards
Participant Eligibility 197
Impairment 197
Necessity of Care 199
Substantial Functional Limitations 198
DD Services
Requirements 197
Right Care 197
Right Outcomes 197
Right Place 197
Right Price 197
Decertification 98
Discretionary Decertification 98
Effect of Decertification 99
Mandatory Decertification 98
Required Notifications by Officers & Agencies 99
Decertification Proceedings-Due Process procedures 99
Decision – Request For Hearing 100
Hearing And Order 100
Notice Of Intent To Decertify 99
Petition For Agency Review 101
Public Notice 101
Service 101
Stipulation Or Relinquishment 100
Decertification Proceedings-General Provisions 99
Legal Authority 99
Overview 99
Stipulation Or Relinquishment 99
Declaratory Rulings 313
Appeals 314
Authority and Purpose 313
Confidentiality 314
Factual Circumstances 314
Filing a Petition 313
Tax Commission's Response to Petition 313
Withdrawal of Ruling 314
Default 372
Notices to Defaulting Party 373
Procedure After Default 372
Procedure if No Petition to Vacate is Filed 372
Procedure Upon Filing of a Petition to Vacate 372
Defective, Insufficient, Or Late Motions & Other Submissions 370
Defective, Insufficient, Or Late Pleadings 368
Defining Retail Customer – Kilowatt Hours And Therms Tax 309
Classification of Retail Sales 309
Determination of Kilowatt Hours or Therms Sold 309
Retail Customer Defined 309
Definitions 84, 232, 357
A Through E 249
Adoption Services 249
Alternate Care 249
Board 249
Case Management 249
Child & Family Services (CFS) 249
Child Protective Services 249
Child's Plan 249
Compact Administrator 249
Day Care 249
Deprivation 249
Director 249
Extended Family Member of an Indian Child 249
Extended Foster Care 249
A Through H 139
Activities of Daily Living (ADL) 139
Adult Day Health (ADH) 139
Agency 139
Amortization 139
Audit 139
Budget Adjustment Factor (BAF) 140
Case Mix Adjustment Factor 140
Case Mix Index (CMI) 140
Children's Habilitation Intervention Services (CHIS) 140
Children's Health Insurance Program (CHIP) 140
Claim 140
CMS 140
Community Support Worker (CSW) 140
Conflict of Interest 140
Consumer-Directed Community Supports (CDCS) 140
Cost Report 140
Customary Charges 140
Date of Discharge 141
Day Treatment Services 141
Department 141
Developmental Disability (DD) 141
Director 141
Dual Eligible 141
Durable Medical Equipment (DME) 141
Early Periodic Screening, Diagnosis, & Treatment (EPSDT) 141
Educational Services 141
Evidence-Based Interventions 141
Evidence-Informed Interventions 141
Facility 141
Family-Directed Community Supports (FDCS) 141
Financial Management Services (FMS) 141
Fiscal Employer Agent (FEA) 141
Gold Card 141
Goods 142
Home & Community Based Services (HCBS) 142
Human Services Field 142
Idaho Behavioral Health Plan (IBHP) 142
Agency 357
I Through O 142

Idaho Medicaid Provider Handbook 142
Inspection of Care Team (IOCT) 142
In-State Care 142
Instrumental Activities of Daily Living (IADL) 142
Integration 142
Interim Reimbursement Rate (IRR) 142
Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) 142
Level of Care 143
Level of Support 143
Licensed Bed Capacity 143
Lower of Cost or Charges 143
Major Movable Equipment 143
Medicaid-Related Ancillary Costs 143
Medical Assistance (Medicaid) 143
Medical Necessity (Medically Necessary) 143
Medical Supplies 143
Medical, Social, & Developmental Assessment (MSDA) Summary 143
Minimum Data Set (MDS) 143
Minor Movable Equipment 143
Nominal Charges 144
Order 144
Ordinary 144
Orthotic 144
Institution of Higher Education 85
Interlocutory order 357
Local Education Agency (LEA) 85
P Through Z 144
Participant 144
Patient Driven Payment Model (PDPM) 144
Personal Assistance Agency (PAA) 144
Plan Developer 144
Plan Monitor 144
Plan of Care 144
Primary Care Provider (PCP) 144
Prior Authorization (PA) 144
Property Rental Rate 144
Prosthetic Device 145
Provider 145
Provider Status Review 145
Qualified Intellectual Disabilities Professional (QIDP) 145
Quality Improvement Organization (QIO) 145
Readiness Review 145
Recoupment 145
Recreational Services 145
Referral 145
Related Entity 145
Restrictive Intervention 145
Retrospective Review 145
Rural Hospital-Based Behavioral Care Unit 145
Self-Directed Community Supports (SDCS) 145
Service Coordination 145
Service Plan 145
Skilled Nursing Care 146
Supervision 146
Support & Spending Plan (SSP) 146
Support Broker (SB) 146
Supports 146
Third Party 146
Traditional Adult DD Waiver Services 146
Traditional Children's HCBS State Plan Option Services 146
Utilization Control (UC) 146
Utilization Control Team (UCT) 146
Vocational Services 146
S Through Z 250
Safety Assessment 250
Safety Plan 250
Sibling 250
Tribal Court 250
Voluntary Services Agreement 250
Withholding of Medically Indicated Treatment 250
Service or Serving 357
Definitions & Abbreviations 301
A Through K 129
Agricultural Market 130
Board 130
Consent Order 130
Core Item 130
Cottage Food Operation 130
Cottage Food Product 130
Department 130
Director 130
Embargo 130
Enforcement Inspection 130
Farmers Market 130
Food Establishment 130
Food Processing Plant 130
Good Retail Practice 130
High-Risk Food Establishment 130
Roadside Stand 132
TCS 132
Agency 232
Application 232
Background Check Unit (BCU) 232
Clearance 232
Conviction 232
Criminal History & Background Check 233
Denial 233
Department 233
Direct Patient Access Employee 233
Disqualifying Crime 233
Employer 233
Enhanced Background Check 233
Incentive Agreement 301
L Through Z 131
License Holder 131
Low-Risk Food Establishment 131
Medium-Risk Food Establishment 131
Priority Foundation Item 131
Priority Item 131
Regulatory Authority 131
Risk Control Plan 131
Risk Factor Violation 132
Pre-Application 301
Relevant Record 233
Tax Reimbursement Incentive Act (TRI) 301
Terms 301
Definitions For Purposes Of The Taxpayers' Bill Of Rights 324
Definitions For Purposes Of The Taxpayers' Bill Of Rights
Collection & Enforcement 324
Publication 324
Written Notification of Representation 324
Definitions, IDAPA 02.01.07 15
Acceptable Hemp THC Level for Licensed Producers 15
Accepted Laboratory 15
Department 15
Entity 15
Handler 15
Harvest 15
Hemp Products 15
Ingestible 15
Inhalable 15
In-State Retailer 15
Key Participant 15
License 15
Lot 15
Measurement of Uncertainty 16
Out-of-State Retailer 16
Producer 16
Prohibited Cannabis Products 16
Retailer 16
Site 16
Total THC 16
Volunteer Hemp 16
Definitions, IDAPA 02.06.09, Subchapter A 37
Acts 37
Aquatic Invertebrate Invasive Species 37
Control 37
Dreissena Infested Waterbody 37
Early Detection/Rapid Response 37
Energy Crop Invasive Species 37
Equipment 37
Facility 37
Possession 37

Trap Crop Invasive Species 37
Water Body 37
Water Supply System 37
Definitions, IDAPA 11.11.01 89, 106
Accredited 89
Act 89, 106
Agency 89, 107
Agency Head 90, 107
Applicant 90, 107
Basic Training Academy 90, 107
Canine Team 90, 107
Canine Team Evaluator 90, 107
College Credit 90, 107
Conviction 90, 107
Correction Officer 90, 107
Council 90, 107
Crime of Deceit 90, 107
Division Administrator 91, 108
Field Training 91, 108
Full Time 91, 108
Hearing Board 91, 108
Hearing Officer 91, 108
In-Service Training 91, 108
Juvenile Detention Center 91, 108
Juvenile Detention Officer 91, 108
Juvenile Justice Officer 108
Juvenile Probation Department 91, 108
Juvenile Probation Officer 91, 109
Law Enforcement Certification Program 91, 109
Law Enforcement Certification Program Facility 91, 109
Law Enforcement Profession 91, 109
Marine Deputy 92, 109
Misdemeanor Probation Department 92, 109
Part-Time Employee 92, 109
POST Certified Instructor 92, 109
Program Coordinator 92, 109
Public Safety Answering Point (PSAP) 92, 109
Regional Training Specialist 92, 109
Reserve Peace Officer 92, 109
School 92, 109
State 92, 109
Student 92, 109
Temporary/Seasonal 92, 109
Trainee 92, 109
Definitions, IDAPA 35.02.01 312
Date of Filing or Payment 312
Declaratory Ruling 313
Pay, Paid, Payable or Payment 312
Definitions, IDAPA 39.02.80 342
Common Carrier 342
Contract Carrier 342
Environmental Restoration 342
Hazardous Material 342
Injury 342
Interstate Carrier 342
Private Carrier 342
Property Damage 342
Definitions, IDAPA 58.01.06 347
Active Portion 347
Backyard Composting 347
Beneficial Use 347
Commercial Solid Waste Facility 347
Composting Facility 347
Contamination 347
Cover Material 348
Decontamination 348
Degradation 348
Disposal 348
Facility 348
Garbage 348
Household Waste 348
Incinerator 348
Inert Waste 348
Lift 348
Modification 348
Municipal Solid Waste Landfill Unit (MSWLF) 349
Non-Hazardous Solid Waste Impoundment (NSWI) 349
Non-Municipal Solid Waste (NMSW) 349
Non-Municipal Solid Waste Landfill (NMSWLF) 349
Open Burning 349
Operator 349
Owner 349
Pilot Project 349
Point of Compliance 349
Processing Facility 350
Projected Waste Volume 350
Pumpable Waste 350
Qualified Professional, Geologist or Engineer 350
Recyclables 350
Recycling 350
Recycling Center 350
Regulated Waste 350
Salvage 350
Scavenge 350
Septage 350
Site 350
Site Size 350
Speculative Accumulation 350
Storm Water 350
Surface Water 350
Tipping Floor 350
Toxic Leachate or Gas 351
Transfer Station 351
Very Small Quantity Generator (VSQG) Management Facility 351
Wood or Mill Yard Debris Facility 351
Yard Waste 351
Denial Of Intervention Does Not Preclude Participation 385
Dental Care 258
Costs Paid by Medicaid 259
Emergencies 259
Department Individuals Subject To A Background Check 236
Emergency Medical Services (EMS) Employees 236
Employees at State Institutions 236
Employees of Bureau of Compliance 236
Employees, Contractors, & Volunteers 236
Other Employees 236
Department Responsibility To Certified Adoption Professional 276
Depositions And Prepared Testimony 375
Developmental Therapy
Coverage & Limitations 203
Individual Program Plan (IPP) Procedural Requirements 204
Intake 204
IPP Changes 204
IPP Development 204
Procedural Requirements 205
Comprehensive Developmental Assessment 205
Documentation Requirements 205
Informed Objectives 206
PIP Requirements 206
Specific Skill Assessments 205
Provider Qualifications & Duties 206
Collaboration with Other Providers 207
Developmental Specialists 206
Developmental Therapy Paraprofessionals 207
Disclosure Of Information
General Public 323
Correction of Information 324
Public Information 323
Scope 322
The Following Information Is Not Considered Disclosure 322
Third Parties 323
Audits or Investigations 323
In General 323
Testimony in Judicial or Administrative Proceedings 323
Written Authorization to Disclose Information 323
Disclosure Of Information -- Identity Theft 324
Written Information Request 324
Disposition Of Child Protection Reports 262
Substantiated 262
Unsubstantiated 262
Disqualification 366
Petitions – Determination 366
Timeline 366
Voluntary Disqualification 366

Disqualifying Crimes Resulting In An Unconditional Denial 242
Appeal of an Unconditional Denial 246
Challenge of Departments Unconditional Denial 245
Disqualifying Crimes 242
Disqualifying Five-Year Crimes 244
Disqualifying Three-Year Crimes 245
Underlying Facts & Circumstances 245
DMEPOS
Coverage & Limitations 172
Corsets & Braces 173
Custom Fitting 172
Electronically Powered or Enhanced Prosthetic or Orthotics 173
Guaranteed Fit 172
Modification & Repairs 172
New Equipment 172
Replacement Prosthesis or Orthotic Device 172
Shoes & Accessories 173
Supply Coverage 172
Temporary Lower Limb Prosthesis 173
Documentation For Audits 153
Additional Documentation 153
Cost Allocation Process 153
Expenditure Documentation 153
Revenue Documentation 153
Documentation Of Criminal, Traffic, & Military Discharge Records 94
Criminal or Traffic Matters 94
Military Discharge 94

E

Early Detection & Rapid Response Aquatic Invertebrate Invasive Species 38
Construction & Road Building & Maintenance Equipment 38
Contaminated Conveyances in Idaho Waters 38
Firefighting Equipment 38
Statewide EDRR AIIS List 38
Transporting EDRR AIIS Over Public Roads 38
Education 93
Acceptable Education 93
Documentation of Education 93
Eligibility 302
Eligible Projects 302
Eligible Recipients 302
Endorsements 59
Alternative Authorization - Teacher to New Endorsement 60
Clinical Experience Requirement 60
National Board Certification 60
EPSDT Services
Provider Qualifications & Duties 178
Evaluation Of Evidence 374
Ex Parte Communications 326, 366
Communications With The General Public 367
Party Communications 326
Presiding Officer Communications 326
Procedural Communications 367
Prohibited Communications 326
Substantive Communications 366
Examination Of Records
Recordkeeping & Production Requirements 317
Recordkeeping And Production Requirements 317
Cost Reimbursement for a Third Party 317
Exempt Plate Display 340
Exempt Plate Status 340
Non-Expiring Plates 340
Reissue of Plates 340
Transfer of Plates 340
Exhibits 375
Experts 375

F

Facility License Application 134
Identification of the Licensed Administrator 135
License Application 134
Written Request for Building Evaluation 134
Family Case Records 254
Electronic & Physical Files 254
Storage of Records 254
Fee Schedule 353
Co-located Facilities 353
Individual Campsite Or Facility 297, 298
Payment 354
Table 1 - Annual Inspection Fee 353
Table 2 - MSW and Tier III Landfill Application Fees 353
Table 3 - Tier II Facilities, NSWI, and all other Tier III Facilities 354
Fees 18, 286
Licensing and Inspection Fees 18
Other Costs 19
Fees & Costs For Background Checks 233
Fees And Remittances 358
Fees Charged By The Department 276
Filing And Service Of Discovery-related Documents 374
Filing –Number Of Copies – Electronic Submission – Facsimile Machine Prohibited 370
Final Orders 381
Content 381
Definition 381
Service of Final Orders 382
Fiscal Employer Agent (FEA)
Consumer-Directed Community Supports (CDCS) 222
Face-to-Face Transitional Participant Enrollment 223
Federal Tax ID Requirement 222
Key Contact Person 223
Policies & Procedures 223
Required IRS Forms 223
Requirement to Obtain & Revoke Power of Attorney 223
Requirement to Report Irregular Activities or Practices 223
SFTP Site 223
Payment Process 223
End-of-Year Processing 225
Process Employee Payments 224
Process Independent Contractor or Outside Agency Payments 225
Process Payroll 223
Process Vendor Payments 224
Requirement to Track & Log Improperly Cashed or Improperly Issued Checks 224
Requirement to Track & Log Time Sheet Billing Errors 224
Transition to New FEA 225
Performance Metrics 226
Cash Management Plan 226
Fiscal Support & Financial Consultation 226
Quarterly Reconciliation 226
Readiness Review 226
Form And Contents Of Petitions For Declaratory Rulings 385
Content 385
Form 385
Legal Assertions 385
Form And Contents Of Petitions To Intervene 384

G

Game Bird Tags 120
Game Bird Tag Validation & Attachment 120
Game Tags 120
General & Controlled Hunt Tags 120
General Payment Procedures 150
Appeals Process 151
Cost Reporting 151
For Providers Subject to Retrospective Cost Settlement 151
Other Noninstitutional Services 151
Procedures for Medicare Cross-Over Claims 151
Provided Services 150
Provider Reimbursement 150
Services Normally Billed Directly to the Patient 151

General Reimbursement Provisions for Institutional Providers 153
General Requirements & Services 250
General Requirements Applicable To All Child & Family Services Programs 250
Individual Authorized to Request Voluntary Services 251
Initiating Child & Family Services 250
General Rules
Computation of Tax Due Amounts for Failure to File, Failure to Pay, Delinquent Filing, Substantial Understatement, & Extension Penalties 319
Net Operating Loss & Capital Loss Carrybacks 319
Penalty Presumed Appropriate 319
Graduate of Basic Police Academy 97
Guardianship Assistance Program Agreements 280
Agreement Specifications 280
Suspension of Guardianship Assistance 281
Termination of Guardianship Assistance 281

H

Handling Of Overpayments & Underpayments For Specified Providers 151
Interest Charges 151
Recovery Methods 152
HCBS
Conflict Of Interest 186
Hearing On Emergency Order 387
Appointment of Presiding Officer 387
Notice of Proposed Hearing 387
Regular Proceedings Permitted 387
Request for Alternative Hearing Date 387
Stay 387
Time for Hearing 387
Hearing On Petitions To Intervene 385
Hearsay 375
High School Graduation Requirements 70, 79
Civics & Government Proficiency 72, 81
Content Standards 71, 81
Credit Requirements 70, 79
Foreign Exchange Students 73, 82
Future Readiness Project 72, 81
Localized Pathways 72, 81
Middle School 72, 81
Physical Education 72, 81
Senior Project 71, 81
Special Education Students 72, 82
Higher Level Certification 110
Requirements 111
Types of Higher-Level Certification 110
Hospital Services
Provider Reimbursement 162
Adequacy of Cost Information 166
Adjustment for Disproportionate Share Hospitals (DSH) 164
Administratively Necessary Days (AND) Reimbursement Rate 163
Audit Function 166
Hospital Swing-Bed Reimbursement 163
Interim Cost Settlements 166
Interim Reimbursement Rates for Providers Subject to Cost Settlement 166
Non-Appealable Items 166
Out-of-State Hospitals 165
Payment Procedures 162
How Hearings Held 376

I

ICF/IID
Coverage & Limitations 184
Coverage 184
Limitations 185
Temporary Absence 185
Procedural Responsibilities 185
Annual Recertification 185
Determinations 186
Reporting Requirements 185
Supplemental On-Site Visit 186
Provider Qualifications & Duties 186
Direct Care Staff Hours 186
Direct Care Staffing Levels 186
Phase-In Period 186
Idaho Child Protection Central Registry Checks 237
Department Response 237
Fee Amount 237
Request for an Idaho Child Protection Central Registry Check 237
Idaho Educator Credential 50
Additional Renewal Requirements 57
American Indian Tribal Language Certificate 57
Career Technical Certification Requirements 54
Junior Reserved Officer Training Corps (Junior ROTC) Instructors 57
Postsecondary Specialist Certificate 57
Standard Administrator Certificate 53
Standard Instructional Certificate 50
Standard Pupil Service Staff Certificate 51
Idaho Electrical Code 293
Availability 296
Documents 293
Idaho Interim Certificate
Idaho Comprehensive Literacy Course 58
Interim Certificate Not Renewable 58
Teaching For Mathematical Thinking 59
Identification Of Communications 358
Inactive Cases 373
Income, Benefits & Savings Of Children In Foster Care 258
Incorporation By Reference 27, 46, 66, 78, 129, 342
Operating Procedures for Idaho Public Driver Education Programs as approved on August 13, 2026 66
Required Reference Materials 27
Required Reference Materials for Checking Prepackaged Commodities 28
Standards for Idaho School Buses and Operations as approved on November 15, 2017 66
The Idaho Content Standards 78
The Idaho Special Education Manual 79
The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Blind or Visually Impaired 79
The Idaho Standards for Infants, Toddlers, Children, and Youth Who Are Deaf or Hard of Hearing 79
The NAISMA Weed Free Products Forage Minimum Standards 46
Incorporation By Reference, Subchapter A 33
Individuals Subject To A Background Check 234
Informal Dispositions, Generally 361
Initial Pleading — Listing Of, & Service Upon, Representatives 364
Inquiry About Negotiations 363
In-Service Training Requirements For Retaining Basic Certification 118
County Detention Officers 118
Emergency Communications Officers 118
Instructor Credit 118
Misdemeanor Probation Officers 118
Peace Officers 118
Tolling of Two-Year Period 118
Inspection Of Handlers 21
Acceptable THC Limits for Handler 21
Follow-Up Inspections 21
Handler Duties 21

Handler Inspection 21
Handler Records 21
Sampling 21
Inspection of Producers 20
Access 20
Harvest 20
Harvest Notification 20
Inspection and Sampling 20
Lots Not Commingled 20
Movement 20
Procedure 20
Producer Records 20
Submission of Information to USDA 21
Verification 20
Inspection of Retailers 22
Access 22
Follow-Up Inspections 22
Inspection and Sampling 22
Notification of Law Enforcement 22
Retail Inspection 22
Retailer Duties 22
Retailer Records 22
Insurance Requirements 342
Insurance Required 342
Other Property Carriers 343
Passenger Carriers 343
Private Carriers 343
Property Carriers -- Hazardous Materials 343
Interest Rates 317
Interim Certification, Non-Traditional Routes, and Certificate Reinstatement 58
Codes of Ethics 59
Interim Certificate 58
Non-Traditional Route to Certification 58
Reinstatement of Expired Certificate 59
Intermediate & Advanced Certification 112
Advanced Certification 114
Intermediate Certification 112
Probationary Period 116
Interpreters 376
Appointment 376
Cost 376
Oath 376
Intervenors 364
Intervention Generally 384
Invasive Species - Amphibians 40
American Bullfrog 40
Rough-skinned Newt 40
Invasive Species - Aquatic Invertebrates 38, 39
Asian Clam 39
Fishhook Waterflea 39
Golden Mussel 39
Marbled Crayfish 39
Marron Crayfish 39
New Zealand Mud Snail 39
Procambarus Crayfish Species 39
Quagga Mussel 39
Red Swamp Crayfish 39
Rusty Crayfish 39
Spiny Waterflea 39
Yabby Crayfish 39
Zebra Mussel 39
Invasive Species - Fish 39
Bighead Carp 40
Black Carp 40
Bowfin 39
Diploid Grass Carp 39
Gar 39
Green Sturgeon 39
Ide 39
Piranhas 39
Round Goby 40
Rudd 39
Ruffe 40
Silver Carp 40
Snakeheads 40
Walking Catfish 39
Invasive Species – Insects 40
Invasive Species - Invasive Plants
Energy Crops 41, 42
Chinese Silver Grass 42
Cold Tolerant Eucalyptis 42
Giant Reed 42
Kudzu 42
Purging Nut 42
Trap Crops 42
Black Nightshade 42
Litchi Tomato 42
Invasive Species – Mollusks 41
Invasive Species - Reptiles 40
Brahminy Blindsnake 40
Common Snapping Turtle 40
Common Wall Lizard 40
Italian Wall Lizard 40
Mediterranean Gecko 40
Red-eared Slider 40
Investigation 268
Child-Related Factors 268
Circumstances 268
Description of Investigation 268
Documentation 268
Facts 269
Recommendation 269
The Process of the Assessment & Investigation 268
Investigation Of Petition To Adopt & Report To The Court 272
Evaluation & Recommendation 273
Legal Availability of the Child 273
Needs of the Child 273
Involuntary Placement Of Indian Children 255
Accepted 256
Involuntary 255
Notice 255
Placement 256

J

Job Creation Criteria 302
Job Shift 302
New Jobs 302
New Jobs Wages 302
Rural Community 302
Urban Community 302
Judicial Review, Generally 384

K

Kinds And Scope Of Discovery Listed 373
Discovery, Generally 373
Kinds and Scope - Rules of Civil Procedure 373

L

Law Enforcement Experience, Military Experience, & College Credits For Purposes Of Higher Certification 111
College Credits 112
Emergency Communications Officer Experience 111
Juvenile Justice Experience 111
Law Enforcement Experience 111
Military Law Enforcement Service & Education 111
Misdemeanor Probation Experience 111
Legal Authority 84, 128, 138, 231, 248, 311, 346, 357
In General 311
Related Taxes 311
Levels Of Risk On The Child Protection Central Registry 263
Child Protection Level One 263
Child Protection Level Three 264
Child Protection Level Two 263
Liberal Construction 358
License 131
License Plate Provisions For All License Plates 335
Placement of Proof of Registration Document 335
Plate Numbering & Lettering 335
License Plate Provisions For Special Plates 337
Custom Vehicle License Plates 337
Disabled Veteran License Plates 337
Year of Manufacture Plates 337
License Renewals 28
License Required For Commercially-Used Weighing Or Measuring Instrument Or Device 28
Annual License 28
Specific Device 28
Licenses 16
Additional Responsibilities 18
Annual Application Period &

Fees 16
Application 16
Application Approval 17
Handler License 17
Ineligibility 17
License Amendment 18
License Expiration 17
License Not Transferable 17
No License For Official Duties 18
Producer License 17
Requirement 16
Retail License 17
Revocation 18
Suspension 18
Licenses For Service Persons For Commercial Weighing And Measuring Devices 30
Additional Responsibilities 31
Annual Application Period & Fees 30
Application 30
Application Approval 30
Ineligibility 30
License Expiration 31
License Not Transferable 30
NTEP 30
Placed Into Service 30
Registered Service Person License 30
Suspension or Revocation of a License 31
Violations 31
Liens & Estate Recovery
Limitations & Exclusions 228
Certain Life Estates 228
Excluded Land 228
Expenses Deducted From Estate 228
Interest on Claim 228
Limitations on Estate Claims 228
Marriage Settlement Agreement or Other Such Agreement 229
Purpose of the Undue Hardship Exception 229
Release of Estate Claims 229
Set Aside of Transfers 229
Limit & Authority 96, 117
Limitations 386
Contested Cases 386
No Limitation On Other Agency Action 386
LM Services
Coverage & Limitations 167
Maternity & Newborn 167
Medication 167

M

Maintaining POST Instructor Certifications & Endorsements 102
Lapse of POST Instructor Certification 102
Renewal of Canine Instructor Certification 102
Renewal of High Liability Endorsement 102
Renewal of Master Instructor Certification 102
Maintenance Of Records 103
Course File 103
Instructor File 103
Student Training File 103
Managed Care For Duals 227
Coverage & Limitations 228
Definitions 227
Dual Eligible 227
Evidence of Coverage 227
Fully Integrated Dual-Eligible Special Needs Plan (FIDE-SNP) 227
Idaho Medicaid Plus (IMPlus) 227
Medicare Advantage Organizations (MAOs) 227
Medicare Advantage Plan 227
Medicare/Medicaid Coordinated Plan (MMCP) 227
Passive Enrollment 227
Eligibility & Enrollment 227
Exclusions 227
Exemptions 227
Mandatory Counties 227
Passive Counties 227
Voluntary Counties 227
Gold Card 228
Card Eligibility 228
Mandatory & Voluntary Certification 92, 110
Exception for Juvenile Detention Officers in Juvenile Corrections 110
Mandatory Certification 92, 110
Voluntary Certification for Certain Officials 93, 110
Voluntary Certification for Correctional Officers & Adult Probation & Parole Officers Employed Prior to July 1, 2005 93, 110
Voluntary Certification for Emergency Communications Officers Employed Prior to July 1, 2012 93, 110
Marine Deputy Certification 97
Absence of Three Years 97
Appointment by Sheriff 97
Certified or Commissioned in Another Jurisdiction 97
Minimum Basic Training 97
Peace Officer Eligibility 97
Maximum & Minimum License Fee Schedule For Commercially-Used Weighing & Measuring Instruments & Devices 28
Medicaid Eligibility For Child in Foster Care 258
Modification Of Orders On Presiding Officer's And Agency Head's Own Motion 383
Modification Of Orders On Presiding Officer's And Agency Head's Own Motion
Final Orders 383
Other Orders 383
Recommended and Preliminary Orders 383
Motions — Defined — Form And Contents — Time For Filing 369
Determination of Motions 369
Form and Contents 369
Motions Defined 369
Oppositions to Motions 369
Oral Argument 369
Time for Filing 369
Motions To Seal 370
Duration of Order 370
Issuance of Order to Seal 370
Provision of Sealed Records Upon Judicial Review 370
Unsealing by Agency Head 370

N

Negligence Penalties 319
Circumstances Precluding Waiver of Penalty 320
Imposition of Penalty 319
Negligence Defined 319
Negligence Penalty for Sales & Use Tax Deficiencies 320
Waiver of Negligence Penalty 320
Negotiations Do Not Exhaust Administrative Remedies 363
NEMT Services
Definitions 178
Contracted Transportation Provider 178
NEMT 178
Transportation Broker 178
Travel-Related Services 178
Neutrals 362
NF
BCU Eligible Days 183
BCU Qualifications 183
Behavioral Care Unit (BCU) Rates 183
Direct Care Costs 183
New Owner 183
Coverage & Limitations 179
Date of Discharge 181
Limitations 180
Minimum Coverage 179
Skilled Services 180
Distressed Facility 182
Annual Review 183
Department Determination 182
Discretionary Factors 182
Prospective Application 183
Procedural Responsibilities 181
Amount Exceeded 181
Change of Status 181
Changes of Resident's Income 181

Other Patient Financial Information 181
Special Rates 183
Determination 183
Effective Date 183
Limitation 183
Payment for Qualifying Residents 184
Prospective Rate Treatment 183
Reporting 183
Special Rate for NF Ownership Change or Closure 184
Treatment of Special Rates In Future Rate Setting Periods 184
NF & ICF/IID Reimbursement 153
Accounting System 155
Application of Reasonable Cost Principles 153
Application of Related Party Transactions 154
Audit Standards & Requirements 156
Audits 155
Compensation to Relatives 154
Failure to File 155
Filing Dates 155
Home Office Cost Principles 154
Idaho Owner-Administrative Compensation 154
Legal Consultant Fees & Litigation Costs 160
Patient Funds 159
Reasonable Cost Principles 153
NonCompliance With These Rules 234
Notice Of Deficiency
Filing A Protest 317
Perfected Protest 317
Protest Procedures 318
Amended Return After Audit 318
Failure to Schedule a Hearing 318
Hearings 318
Issues 318
Request for a Final Decision 318
Simultaneous Request for a Final Decision & a Hearing 318
Notice Of Hearing 376
Notice Of Scheduling Conference 371
Notification Of A Substantiated Incident Of Abuse, Neglect, Or Abandonment, & Related Administrative Review & Contested Case Appeal Rights 264
Administrative Review Requested 265
Child Protection Central Registry 265
Contested Case Appeal 265
Notification of Substantiated Incident 264
Reversal of Decision to Substantiate 265
Noxious Weeds - Designations 42
Designation of Articles Capable of Disseminating Noxious Weeds 45
Statewide Containment Noxious Weed List 44
Statewide Control Noxious Weed List 43
Statewide EDRR Noxious Weed List 42
Statewide PROHIBITED GENERA Noxious Weed List 42

O

Objections -- Offers Of Proof 375
Official Notice 375
Official Vehicle For Approving Educator Preparation Programs 63
Continuing Approval 63
Non-Traditional Educator Preparation Program 63
Payment Responsibilities for Educator Preparation Program Reviews 63
The Official Vehicle for the Approval of Educator Preparation Programs 63
Ongoing Eligibility 257
Opportunity To Participate
Additional Petitioner Participation Information 319
Notice To Petitioner 318
Notification & Participation 318
Opposition To Petitions To Intervene 385
Oral Argument 378
Order Not Designated 383
Order Of Procedure 377
Orders On Petitions To Intervene 385
Orders Regarding Costs And/Or Fees 382
Filing of Motions for Awards of Costs and/Or Fees 382
Orders Granting or Denying Costs and/Or Fees 383
Scope of Rule 382
Orders Resulting From Conferences 372
Orders To Dismiss 384
Effect 384
Form 384
Other Agency-Specific Contested Case Rules
Mandatory Application 388
Optional Application 388
Other Agency-specific Contested Case Rules 388
Other Alternative Care 260
Payment 260
Placement 260
Referral 260
Other Challenges To Rules 366
Other Status Conferences Before The Evidentiary Hearing 372
Other Written Evidence 375

P

Paid CDCS 215
Adaptive & Therapeutic Equipment 215
CSW Services 215
FMS 215
Limitations 216
SB Services 215
Paid Community Support Worker (CSW) Duties & Responsibilities 219
Employment Agreement 220
Initial Documentation 219
Time Sheets & Invoices 220
Parental Financial Support For Children In Alternate Care 258
Participant Eligibility 212
Eligibility Determination 212
Involuntary Removal 212
Participant Agreement 212
Participant Responsibilities 212
Employment Agreements 213
Guiding Principles 213
Person-Centered Planning 213
Quality Assurance & Improvement 213
Rates 213
Required Classes 213
SSP 213
Sufficient Staffing 213
Time Sheets & Invoices 213
Parties And Persons With Similar Interests 377
Parties To Contested Cases Listed 363
Part-Time Juvenile Justice Officer Certification 117
Eligibility 117
Limitations on Certification & Authority 117
Requirements for Certification 117
Retaining Certification 117
PCS
Coverage & Limitations 194
Medical Care & Services 194
Non-Medical Care & Services 195
Participant Limitations 195
Place of Service 195
Provider Limitations 195
Service Exclusions 195
Supervisor RN & QIDP 195
Eligibility 194
Assessment 194
Redetermination 194
Significant Changes 194
Procedural Requirements 195
PA 196
Provider Notification 196
Record Requirements in Participant Homes 196
Service Plan 195
Supervision 196

Reimbursement 196
Calculated Fee 196
CFH & RALF Rates 197
PAA Rates 196
Rate Methodology 196
Supervisor RN & QIDP Rates 197
PDN
Participant Eligibility 178
Provider Ordered 179
RN Assessment 179
Service Plan 179
Status Updates 179
Penalties
General Rules 319
Penalty For Failure To File, Failure To Pay, Or Delinquent Filing 320
In General 321
Insufficient Postage 321
Month Defined 321
Permits & Inspections 291
Fee Schedule 292
Plan Check Fee 293
Reinspection Fees 293
Requested Inspection Permit 293
Virtual Inspection Request 293
Persons Not Parties — Interested Persons 364
Persons Not Parties — Public Witnesses 364
Petition For Judicial Review 384
Petition For Removal Of An Individual's Name From The Child Protection Central Registry 265
Appeal of a Denial of Removal From the Child Protection Central Registry 266
Criminal History Checks 266
Criteria for Granting Petition for Removal From the Child Protection Central Registry 266
Granting or Denying Removal From the Child Protection Central Registry 266
Petition for Removal From the Child Protection Central Registry 265
Petition Under The Child Protective Act 266
Petitioners 363
Placement Of The Child 272
Disclosure 272
Factors Considered in Determining Adoptive Placements 272
Pleadings – Construction 367
Pleadings – Form And Contents 367
Content 368
Form 367
Pleadings – Naming 367
Policy 231
Polygraphs 375
POST 92, 109
POST Credit For In-Service Training 102
Course Attendance Roster 103
Credit for POST In-Service Training Provided by a Post Certified Instructor in Idaho 102
Credit for POST In-Service Training Provided by an Organization or Vendor who is not POST Certified 102
Training Outside of Idaho 103
Practice Not Covered By Statute Or Rules 358
Practice Standards 288
Certification & Approval of Electrical Products & Materials 291
Connecting & Energizing Prior to Inspections 289
Contractor Scope 288
Electrical Contracting Work 288
Limited Electrical Installations 289
Supervision 288
Preadmission Screening & Resident Review Program (PASRR) 181
Change in Status 181
Exceptions to PASRR 181
Level I Screening 181
Level II Screening 181
Reimbursement During Exempted or Delayed Level II Admissions 182
Pre-Adoptive Parent Responsibilities 272
Preliminary Orders 380
Content 380
Content if Reconsideration is Not Permitted or Feasible 381
Definition 380
Service of Preliminary Orders 381
Preliminary Procedure At Hearing 377
Prepared Testimony And Exhibits 374
Prescription Drugs
Participant Eligibility 170
Presiding Officer Legal Counsel 327
Presiding Officer's Calling Or Examining Of Witnesses 377
Preventive Health Assistance (PHA)
Coverage & Limitations 169
Point System 169
Premiums 170
Weight Management Program 170
Procedural Requirements 170
Behavioral PHA 170
Wellness PHA 170
Procedure For Notice Of Informal Disposition Occurring Prior To A Contested Case Proceeding 362
Procedures On Settlements Over Fifty Thousand Dollars
Amount in Issue 322
Final Review When the Offer to Settle is Based on Inability to Pay 322
Written Summary 322
Procedures On Settlements Over Fifty Thousand Dollars ($50,000) 322
Proceedings 386
Determination Of Need For Hearing 386
Hearing Needed 386
No Hearing Needed 386
Processing Applications For Permit 329
Additional Information Requirements 331
Burden of Proof 330
Protests, Intervention, Hearings & Appeals 329
Public Notice Requirement 329
Producer Disposal 23
Costs 24
Disposal 23
Hemp Above the Acceptable Hemp Thc Level for Producer 23
Other Producer Hemp Disposal 24
Remediation 23
Reporting 24
USDA Notification 24
Verification 24
Producer Records 19
Producer Records 19
Submission of Information to USDA 20
Program Intent
Available Credit 302
Evaluation & Recommendation 302
Proof Of Insurance 343
Proof Of Service 371
Protections & Safeguards For Children & Families 252
Active Efforts 252
Compelling Reasons 254
Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic (IEPA) of 1996 253
Compliance with the Indian Child Welfare Act of 1978 252
Family Decision-Making & Plan Development 253
Legal Requirements for Indian Children 252
Notification of Change in Visitation 253
Permanency Preferences 254
Qualified Expert Witness-(QEW) under ICWA 253
Reasonable Efforts 252
Visitation for Child's Parent(s) or Legal Guardian(s) 252

Protective Orders 374
Provider Agreements 146
Crossover Only Providers 147
Enforcement Actions & Terminations 146
General 146
Non-billing Ordering, Referring, & Prescribing (ORP) 147
Provisions For Personalized License Plates 337
Acceptability of Plates Message 338
Character Limitations 337
Credits 338
Expired Plates 339
Issue of Personalized Plates 338
Lack of Current Plates 338
Message Preferences 339
Recalled Plates 339
Renewing Plates 338
Specific Requests 338
Transfer of Plates 338
Unexpired Fees 339
Provisions For Sample Plates 339
Personalized Sample Plates 339
Plate Size 339
Provisions For Special License Plate Program Prequalification & Application Procedures 336
Appeals 336
Cancellation of Plate Programs 336
Special License Plate Prequalification 336
Submission to the Legislature 336
Provisions for Transporter Plates 335
Numbering of Plates 335
Possession of Registration 335
Purpose 335
Renewal of Registration 335
Use of Plates 335
Violations 335
Provisions For Wrecker Plates 336
Acquisition/Renewal of Wrecker Plates 336
Numbering of Plates 336
Possession of Registration 336
Purpose 336
Renewal of Registration 336
Use of Plates 336
Public 101
Public Inquiries About Or Recommendations For Agency Issuance Of A Petition 359
Office of Administrative Hearings 359
Presiding Officers 359
Response to Public Inquiry 359
The Agency Staff 359
Purposes Of The Prehearing Conference 372
Purposes Of The Scheduling Conference 371

Q

Quality Assurance 222
Adult Service Outcomes 222
Adult Services Outcome Review (ASOR) 222
Complaint Reporting & Tracking Process 222
CSWs & SBs Quality Assurance Activities 222
HCBS Specific Reviews 222
Participant Choice of Paid CSW 222
Quality Oversight Committee 222
Quarterly Quality Assurance Reviews 222

R

Recognition Of Accreditation Organizations 48
Recommended Orders 378
Content 379
Content if Reconsideration is Not Permitted or Feasible 380
Definition 379
Service of Recommended Orders 380
Record Of Conferences 372
Recording Or Reporting Of Hearings 378
In-Person, Remote Video and Telephonic Hearings 378
Presiding Officers 378
Transcripts 378
Records 152
Availability of Records 153
Provider Refusal 152
Retention of Records 153
Undocumented Services 152
Records Of The Certified Adoption Professional 276
Referral To Child Support Services
Assignment of Child Support 258
Collection of Child Support 258
Reporting System 260
Reports Involving Indian Children 261
Reports Involving Military Families 261
Representation Of Parties 365
Requirements For Basic Certification 94
Agency Employment 94
Application 95
Aptitude Test 95
Background Investigation 94
Code of Ethics/Standards of Conduct 95
Mental Readiness Assessment 95
Physical Readiness Assessment 95
Time for Completing Basic Training Academy or Alternative Training, Field Training & Probationary Period 96
Requirements For High Liability Instructor Endorsement 101
Application 101
Completion of a High Liability Instructor School 101
Continuing Training Requirements 101
Instruction Pending Endorsement 101
Multiple Endorsements 101
Requirements Of Valid Tax Returns 315
In General 315
Information to Compute Tax 315
Necessary Information 315
Reproduced & Substitute Forms 315
Signing of Returns 315
Supporting Documentation 315
Resolution Of Athletic Participation Disputes 85
Confidentiality 87
Content of Dispute 85
Designated Administrator 85
Documentation 86
Review and Notices 85
Review and Resolution 86
Scope 85
Respondents 364
Response Priorities 260
Disclosure of Information to Professionals 261
Notification of the Person Who Made the Referral 261
Priority I 260
Priority II 260
Priority III 261
Rights Of Parties And Of Agency Staff 364
Rights To Discovery Reciprocal 374
Rules Of Evidence 374
Rulings At Hearings 378
Rural Fuel Exemption 31

S

Salvage Harvesting 283
Purpose 283
Timely Salvage of Dead Dying or Threatened Timber 283
Samples & Testing 22
Awaiting Producer Test Results 23
Handler & Retail Test Results 23
Handler and Retailer Sampling Protocol 23
Laboratory Testing 22
Producer Sampling Protocol 22
Retesting 23
Test Results 23
Sanctions For Failure To Obey Order Compelling Discovery 374
SB Duties & Responsibilities 217
Additional Duties 218

Documentation 218
Initial Documentation 217
Required Duties 218
Termination of Services 219
SB Requirements & Limitations 216
Application Exam 217
Continuing Training 217
Limitations 217
SB Requirements 216
Termination 217
Time Sheets & Invoices 217
SBS
Provider Qualifications & Duties 174
Behavioral Consultation 175
Behavioral Intervention 174
Crisis Intervention 175
Habilitative Skill Building 176
Interdisciplinary Training 176
Medical Equipment & Supplies 176
Nursing Services 176
Occupational Therapy & Evaluation 176
Personal Care Services (PCS) 176
Physical Therapy & Evaluation 177
Psychological Evaluation 177
Psychotherapy 177
Skills Building/Community-Based Rehabilitation Services (CBRS) 177
Social History & Evaluation 178
Speech/Audiological Therapy 178
Therapy Paraprofessionals 178
Transportation 178
Service-Specific Participant Eligibility 173
CHIS 174
Personal Care Services 174
Skills Building/Community Based Rehabilitation Services (CBRS) 173
Scope 14, 84, 301, 312
Scope Of Authority Of Presiding Officers 366
Change in Scope of Authority 366
Standard Scope of Authority 366
Sequestration Of Witnesses 377
Service And Notice Of Petition For Declaratory Ruling 386
Service By Agency Or Presiding Officer 370
Proof of Service 371
Service by a Presiding Officer 371
Service by the Agency 370
Service By Parties 370
Service Coordination
Coverage & Limitations 210
Contacts 210
Crisis Assistance 210
Exclusions 210
Limitations 211
Monitoring & Follow-Up 210
Plan Assessment & Reassessment 210
Plan Development 210
Definitions 209
Conflict of Interest 209
Crisis 209
Participant Eligibility 209
Adults 209
Children 209
Provider Qualifications & Duties 211
Case Loads 212
Health, Safety, & Fraud Reporting 212
Paraprofessional Requirements 211
Provider Agreement 211
Service Coordinator Requirements 211
Supervision 211
Supervisor Requirements 211
Service Of Emergency Order 387
Services To Be Provided In Adoptions 267
Post Adoption Services 267
Preparation for Placement 267
Pre-Placement Child/Family Assessment 267
Technical Assistance 267
Services, Treatments, & Procedures Not Covered By Medicaid 161
Experimental Treatments or Procedures 162
Service Categories Not Covered 161
Types of Treatments & Procedures Not Covered 162
Settlements 321
Agreement Final 322
Form of Settlement 322
Grounds for Settlement 321
Withdrawal of Offer 322
Signatures 358
Certification 358
Signature Required 358
Special Motions 369
Interlocutory Motions for Reconsideration 369
Motions for Permissive Appeal 369
Specialized Reimbursement
Electronic Visit Verification (EVV) 160
EVV Requirements 161
Services Requiring EVV 160
Speedy Hearing Permitted 386
Standards Of Conduct 326
Participant Standards 326
Presiding Officer Standards 326
Stay Of Agency Action 370
Stay Of Orders 383
Stipulations Regarding Facts 362
Submission Of Fingerprints 238
Department Fingerprinting Locations 238
Submission of Reprints 238
Submitting Fingerprints by Mail 238
Subpoenas 374
Substitution Of Representative 365
Suppliers 124
Contact With Licensees 125
Delisting 124
Liquor Displays 125
Liquor Shipments 124
New Listings 124
Product Returns 124
Promotional Samples 125
Resident Supplier Representatives 124
Samples 125
Supplier Representative Permits 124
Title to Liquor, Wines & Related Products 124
Violations 125
Warranties 124
Support & Spending Plan (SSP) Development 220
Limitations 221
Requirements 220

T

Taking Of Appearances — Participation By Agency Staff – Use Of Agency Report Or Recommendation 364
Tax Credit Authorization 305
Claiming Tax Credit 306
Duplicate Copy 306
Tax Preparers -- Alternative Methods Of Signing Income Tax Returns 316
Tax Returns & Other Documents Filed Electronically 316
Acknowledgment of Data Transmissions 316
Methods Allowed for Filing Motor Fuels Tax Returns Electronically 316
Risks of Disclosure 316
Termination Or Suspension Of Tax Credit 307
Denial of Tax Credit 307
Request for Additional Documentation 307
Termination of Agreement 307
Terms Of Certification For Adoption Professionals 274
Decertification 276
Denial of Recertification 275
Lapse of Certification 275
Limits of Certification 274
Recertification 275
Types of Certification 274
Testimony Under Oath 377
The Adoptive Placement 272
Therapy Services

- Coverage & Limitations 170
- Non-Covered Therapy Services 171
- Service Limitations 171
- Therapy Services 170
- Procedural Requirements 171
- Orders 171
- Therapy Plan of Care 171

Third Party Liability 148
- Accident Determination 149
- Billing Third Parties First 149
- Current Resource 148
- Determining Liability 148
- Seeking Third Party Reimbursement 148
- Subrogation of Legal Fees 149
- Subrogation of Third Party Liability 149
- Third Party Payments 149
- Withholding Payment 148

Tier II & Tier III Application & Plan Review & Approval 351
- Application Review 351
- Application Submittal 351
- Application Valid for Two Years 352
- Preapplication Conference 351

Time Frame For Submitting Fingerprints 238
- No Extension of Time Frame 238
- Time Frame 238

Timely Filing Of Petitions To Intervene 384

Title & Scope
- Closed Years or Issues 312
- Effective Date 312
- Transactions Before an Effective Date 312

Title And Scope 357
- Scope 357
- Title 357

Title IV-E Adoption Assistance 277

Title IV-E Guardianship Assistance 280

Transition Management 193
- Limitations 194
- Provider Qualifications 193
- Service Description 193

Transplanting 21
- Lots Not Combined 21
- Lots Not Divided 21
- Transplant Sales 21
- Transplanting 21

Treatment Foster Care 259
- Availability 259
- Continuing Education 259
- Payment 259
- Payment to Contractors 259
- Qualifications 259
- Treatment Plan 260

Types & Amounts Of Assistance 277
- Monthly Cash Payment 278
- Nonrecurring Adoption Reimbursement 277
- Title XIX -- Medicaid Coverage 278
- Title XX -- Social Services 278

Types And Amounts Of Guardianship Assistance 280
- Monthly Cash Payment 280
- Nonrecurring Expenses 280
- Title XIX Medicaid 280

U

Unacceptable Payments 314
- Checks & Drafts From Foreign Institutions 314
- Checks & Drafts Previously Dishonored 314
- Checks & Drafts That Result in Processing Fees 314
- Tax Commission's Discretion 314
- Tender of Gold or Silver Coin or Specie 314

Unconditional Denial 241
- Appeal of an Unconditional Denial 242
- Challenge of Department's Unconditional Denial 242
- Issuance of an Unconditional Denial 242
- Reasons for an Unconditional Denial 241

Undercover Plate Status 340
- Expiration of Registration 340
- Reissue of Plates 340
- Transfer of Plates 340

Upland Game Bird Permit (Department-Stocked Birds) 120
- Permit Limit 120
- Permit Validation 120
- Upland Game Bird Permit 120

Use Of Previously Completed Background Checks 240
- Agency Discretion 241
- Department Discretion 241
- New Background Check 240
- Use of Background Check Within Three Years of Completion 240

V

Vehicle Dealer Transporter Registration & Plate
- Penalties 336

Venur, Facilities For Hearing, And A.D.A. Requirements 327
- Facilities and A.D.A. Requirements 327
- Venue 327

Violations 24
- Agency Inspection 25
- Handler and Retail Licensees Subject to Criminal Enforcement 25
- Licensed Producers shall not be subject to more than one (1) negligent violation per calendar year 24
- Negligent Acts 24
- Non-negligent Violations 25
- Not Subject to Criminal Enforcement 25
- Penalties and Procedure 25
- Producer and Handler Corrective Actions 24
- Sale 24

Voiding Of Orders 383
- Determination 384
- Investigation 383
- Notice 383
- Reassignment 384
- Stay 383
- Voiding of Order 384

Voluntary Inspection Of Weighing & Measuring Instruments, Devices, Re-examination Of Rejected Devices, & Fees 29

W

When Discovery Authorization Not Required 373

When Service Complete 371

Withdrawal And Substitution Of Parties 364

Withdrawal Of Application 238

Withdrawal Of Representative 365