

Dear Senators MCKENZIE, Davis, Stennett, and
Representatives LOERTSCHER, Batt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Administration :

IDAPA 38.04.06 - Rules Pertaining To The Rules Governing Use of the Exterior of a State Property
in the Capitol Mall & Other State Facilities (Docket No. 38-0406-1301);

IDAPA 38.04.08 - Rules Pertaining To The Rules Governing Use of the State Capitol Exterior
(Docket No. 38-0408-1301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/10/2013. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/07/2013.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee
FROM: Principal Legislative Research Analyst - Eric Milstead
DATE: June 20, 2013
SUBJECT: Department of Administration

IDAPA 38.04.06 - Rules Pertaining To The Rules Governing Use of the Exterior of a State Property in the Capitol Mall & Other State Facilities (Docket No. 38-0406-1301);

IDAPA 38.04.08 - Rules Pertaining To The Rules Governing Use of the State Capitol Exterior (Docket No. 38-0408-1301)

I. IDAPA 38.04.06 - Rules Pertaining To The Rules Governing Use of the Exterior of a State Property in the Capitol Mall & Other State Facilities (Docket No. 38-0406-1301)

The Department of Administration submits notice of temporary and proposed rulemaking at IDAPA 38.04.06 -- Rules Governing Use of the Exterior of a State Property in the Capitol Mall and Other State Facilities. The principal revisions found in this temporary and proposed rule concern definitions. The revisions eliminate the definitions of "Event" and "Exhibit" (and use of those terms throughout the rule), revise the definition of "Public Use" and provide for a limitation on the duration of public use. (See Section 010.07 and .08; Section 010.13; and Section 201.)

The agency notes that the revisions reflected in the temporary and proposed rule reflect the concerns voiced by the 2013 Legislature. The agency also notes that negotiated rulemaking was not conducted because the "majority of the revisions are simple in nature and necessary for clarity." The agency also states that "other revisions reflect the request of legislators and consensus with representatives of affected interest, including those present at 2013 legislative hearings, is unlikely."

The effective date of the temporary rule was April 5, 2013.

The agency's temporary and proposed rule appears to be authorized pursuant to sections 67-5221, 67-1604 and 67-5709, Idaho Code.

II. IDAPA 38.04.08 - Rules Pertaining To The Rules Governing Use of the State Capitol Exterior (Docket No. 38-0408-1301)

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The Department of Administration submits notice of temporary and proposed rulemaking at IDAPA 38.04.08 -- Rules Governing Use of the State Capitol Exterior. Revisions found in the temporary and proposed rule in this docket are somewhat similar to revisions described in the immediately preceding docket. This docket includes revisions to the definitions section by deleting the definitions of "Event" and "Exhibit" and revising the definition of "Public Use". (See Sections 010.05; 010.06 and 010.08.) Consequently, those revisions are reflected throughout the temporary and proposed rule where those terms had appeared in the prior rule. For example, see Section 200.01.a and .b, where the terms "Events" and "Exhibits" are eliminated from the section authorizing uses by the public. There is also a new section that includes a new subsection providing for a limit on "Public Use Duration." (Section 201). Section 400 of the temporary and proposed rule revises provisions governing permits. Changes reflected in this section include the provision that permits will be issued to groups of two or more people and that the Director of the Department of Administration will issue a permit only for public use involving two or more persons. (See Sections 400.01 and .02.d.)

In similar fashion to the docket discussed above, the agency notes that negotiated rulemaking was not conducted because the majority of the revisions are considered "simple in nature and necessary for clarity." The agency also notes that other revisions in the temporary and proposed rule reflect the "request of legislators and consensus with representatives of affected interests, including those present at 2013 legislative hearings, is unlikely."

The effective date of the temporary rule was April 5, 2013. The agency's temporary and proposed rule appears to be authorized pursuant to sections 67-5221, 67-1604 and 67-5709, Idaho Code.

cc: Teresa Luna, Department of Administration

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.06 - RULES GOVERNING USE OF THE EXTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

DOCKET NO. 38-0406-1301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 5, 2013.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-1604 and 67-5709, 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 May 15, 2013.

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 Idaho Legislature rejected certain provisions of IDAPA 38.04.06 during the 2013 session. This action created unnecessary definitions and necessitated clarifications. The chapter was further revised to reflect informal requests of legislators during rules reviews hearings and to address ambiguities noted by other parties.

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

The revisions confer a benefit to the public by clarifying the requirements for use of state facilities.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the majority of the revisions are simple in nature and necessary for clarity. Some of the ambiguities clarified were identified by affected interests. The remaining revisions reflect the request of legislators and consensus with the representatives of affected interests, including those present at 2013 legislative hearings, is unlikely.

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 temporary and proposed rule, contact Teresa Luna, Director, at (208) 332-1827.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 22, 2013.

DATED this 5th day of April, 2013.

Teresa Luna, Director
Department of Administration
650 W. State St.
P. O. Box 83720
Boise, ID 83720-0013
Phone: (208) 332-1827
Fax: (208) 334-2307

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 38-0406-1301**

010. DEFINITIONS.

- 01. Camping.** Any activity prohibited under Section 67-1613, Idaho Code. (3-27-13)
- 02. Capitol Annex.** The grounds, exterior of buildings, exterior of improvements, and real property located at 514 West Jefferson Street, Boise, Idaho and occupying block 65 as shown on the Boise City original townsite plat filed in the Ada County Recorder's office in Book 1 on page 1. (3-27-13)
- 03. Capitol Mall Office Properties.** The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Office Properties do not include the Idaho State Capitol or its grounds or the Capitol Mall Annex. (3-27-13)
- 04. Commemorative Installation.** Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (3-27-13)
- 05. Department.** The Department of Administration. (3-27-13)
- 06. Director.** The Director of the Department of Administration or his designee. (3-27-13)
- ~~**07. Event.** Any press conference, performance, ceremony, presentation, meeting, rally, reception, demonstration, protest, educational tour or gathering of people held at the State Facilities. As used in this definition, a gathering consists of two (2) or more people. (3-27-13)~~
- ~~**08. Exhibit.** Any temporary Commemorative Installation and any attended or unattended display, including, but not limited to, equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (3-27-13)~~
- ~~**09. Multi-Agency Facilities.** The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 102 of these rules. (3-27-13)~~
- ~~**108. Other State Properties.** The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 101 of these rules. (3-27-13)~~
- ~~**109. Parking Facilities.** The facilities, exterior of buildings, exterior of improvements, and real property set forth in Section 67-5709(2)(b), Idaho Code. (3-27-13)~~
- 120. Private Event or Private Exhibit.** Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (3-27-13)

131. Public Use. Use that is not ~~an Event, Private Event, Exhibit, Private Exhibit or use by a public officer, official, employee, contractor, agency, board or commission for state of Idaho business.~~ **Public Use includes, but is not limited to, the following:** (3-27-13)(4-5-13)T

a. ~~The transit of individuals through the~~ **△ State Facilities unrelated to an** Event or Exhibit; (3-27-13)(4-5-13)T

b. ~~Incidental, short term recreational use of the State Facilities unrelated to an Event or Exhibit; and~~ (3-27-13)

eb. ~~The conduct of~~ **Use by a** public ~~business with any state of Idaho~~ **officer, official, employee, contractor, agency, or board, or commission,** ~~officer or elected official acting on behalf of the~~ **for** state of Idaho ~~business; or~~ (3-27-13)(4-5-13)T

c. State Maintenance and Improvements. (4-5-13)T

142. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (3-27-13)

153. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (3-27-13)

164. State Facilities. The Capitol Mall Office Properties, the Capitol Annex, the Multi-agency Facilities, the Parking Facilities and the Other State Properties. Use of the phrase “at the State Facilities” shall include the exterior of buildings, exterior of improvements and the grounds and real property comprising the State Facilities. (3-27-13)

175. State Maintenance and Improvements. Maintenance or improvement of the State Facilities by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (3-27-13)

011. -- 100. (RESERVED)

101. OTHER STATE PROPERTIES.

These rules shall apply to the following Other State Properties pursuant to the request of the state of Idaho public entity owning or controlling the property: (3-27-13)

01. Idaho State Historical Society Properties. (3-27-13)

a. The following properties owned or operated by the Idaho State Historical Society shall be Other Properties under these rules: (3-27-13)

i. Idaho State Historical Museum, located at 610 North Julia Davis Drive, Boise, Idaho. (3-27-13)

ii. Old U.S. Assay Office, located at 210 Main Street, Boise, Idaho. (3-27-13)

iii. Old Penitentiary site located in Boise, Idaho and defined in Section 58-337, Idaho Code. (3-27-13)

iv. Idaho History Center, located at 2205 Old Penitentiary Road, Boise, Idaho. (3-27-13)

v. Franklin Historic Properties, located in Franklin, Idaho. The Franklin Historic Properties include the Franklin Co-operative Mercantile Institution Building, the Hatch House, the Doney House, and the Relic Hall.

- (3-27-13)
- vi. Pierce Courthouse, located in Pierce, Idaho. (3-27-13)
- vii. Rock Creek Station and Stricker Homesite, located at 3715 Stricker Cabin Road, Hansen, Idaho. (3-27-13)
- b.** The following sections of these rules shall apply to the Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules only as modified by this Paragraph 101.01.b.: (3-27-13)
- i. Subsection 010.06. "Director" shall mean the Executive Director of the Idaho State Historical Society when these rules are applied to the Idaho State Historical Society Properties. (3-27-13)
- ii. Subsection 200.01. "Authorized Uses by the Public" shall apply except that the Director may authorize Private Events or Exhibits and the exclusion of members of the public from attending Private Events and Exhibits. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public from a Private Event or Exhibit. (3-27-13)
- iii. Section 302. "~~Hours Maintenance~~ and ~~Locations of Use Improvements~~" shall apply as if the Idaho State Historical Properties were Capitol Mall Office Properties unless ~~other hours of use or access restrictions are otherwise~~ designated at the property, or posted on the Idaho State Historical Society website. ~~(3-27-13)~~(4-5-13)T
- iv. Subsection 305.02. "Domestic Animals" shall apply unless a sign at the property specifies that domestic animals are not permitted. (3-27-13)
- c.** The Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules may be licensed or leased and such license or lease may vary the provisions of these rules applicable to use of the property under this chapter, including but not limited to the following: ~~hours of use;~~ commercial use; Public Use; Private Events or Exhibits; consumption and distribution of alcohol; affixing of materials to the Idaho State Historical Society Properties; use of sound amplification; fireworks displays; and, use of utilities. ~~(3-27-13)~~(4-5-13)T

(BREAK IN CONTINUITY OF SECTIONS)

200. USE OF STATE FACILITIES.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Facilities are available for ~~use by the public for the following:~~ (3-27-13)

~~**a.** Events. Events shall be held only in the locations and during the hours set forth in these rules. Events shall not exclude any member of the public from attending the Event. (3-27-13)~~

~~**b.** Exhibits. Exhibits shall be held only in the locations and during the hours set forth in these rules. Exhibits shall not exclude any member of the public from attending the Exhibit. (3-27-13)~~

~~**c.** Public Use. (3-27-13)~~(4-5-13)T

02. Prohibited Uses. The following uses are prohibited at the State Facilities: (3-27-13)

a. Commercial Activity. The State Facilities shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service at the State Facilities. The following are not commercial activity prohibited by this subsection: (3-27-13)

i. Meetings or conferences for public employees or their relatives describing employee benefits and approved by a state of Idaho agency. (3-27-13)

- ii. Concessions authorized by law. (3-27-13)
 - iii. Vaccinations may be provided in exchange for a fee without the prior written permission of the Director where approved by a state of Idaho agency, board, commission or elected official. (3-27-13)
 - b. Camping. (3-27-13)
 - c. Private Events and Exhibits. (3-27-13)
- 03. State Events and Exhibits.** State Events and Exhibits may occur in any portion of the State Facilities. The Director may waive all or a portion of these rules for a State Event or Exhibit. (3-27-13)
- 04. Priority of Uses.** State Maintenance and Improvements shall have priority over all other use of the State Facilities. ~~State Events and Exhibits shall have priority over public Events and Exhibits, and Public Use.~~ (3-27-13)(4-5-13)T

201. ~~RESERVED PUBLIC USE DURATION.~~

~~The duration of Public Use at any single facility of the State Facilities, including time for set-up and clean-up, shall not exceed seven (7) consecutive days. A Public Use may continue at the State Facilities after a seven (7) consecutive day period if the Public Use does not use the same facility for twenty-four (24) hours or more between each seven (7) consecutive day period. All items must be removed at the earlier of the conclusion of the Public Use or the end of the seven (7) consecutive day period.~~ (4-5-13)T

(BREAK IN CONTINUITY OF SECTIONS)

203. ESTABLISHMENT OF PERIMETERS.

Security Personnel and law enforcement may establish perimeters separating participants in ~~Exhibits and~~ Public Use of the State Facilities or State Events and Exhibits. Participants in and observers of any Public Use or State Events ~~or and Exhibits~~ shall observe perimeters set pursuant to this section. (3-27-13)(4-5-13)T

204. AREA CLOSURES.

The Director may direct that any portion of the State Facilities be closed for ~~Events, Exhibits and~~ Public Use upon a finding that the closed portion of the State Facilities has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Facilities closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Facilities. Circumstances presenting an imminent danger of damage to the State Facilities include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. (3-27-13)(4-5-13)T

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.

The restrictions and limitations on use of the State Facilities set forth in Sections 301 through 399 of these rules shall apply to all ~~Events, Exhibits, and~~ Public Use of the State Facilities. (3-27-13)(4-5-13)T

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference with Primary Use of Facility or Real Property. ~~Events, Exhibits, and~~ Public Use of the State Facilities shall not interfere with the primary use of the facility or real property adjoining the facility. The primary uses of the State Facilities include, but are not limited to, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the

affected facility or the real property adjoining the facility.

~~(3-27-13)~~(4-5-13)T

02. Interference with Access. ~~Events, Exhibits and~~ Public Use of the State Facilities shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Facilities.

~~(3-27-13)~~(4-5-13)T

302. ~~HOURS MAINTENANCE AND LOCATIONS OF USE IMPROVEMENTS.~~

~~The hours for Events and Exhibits at the State Facilities are as follows:~~

~~(3-27-13)~~

~~01. Maintenance and Improvements.~~ ~~Notwithstanding the hours set forth in Subsections 302.01 and 302.02 of this section, Events, Exhibits and~~ Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the website address set forth in Section 005 of these rules. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication.

~~(3-27-13)~~(4-5-13)T

(BREAK IN CONTINUITY OF SECTIONS)

314. UTILITY SERVICE.

~~Events, Exhibits, and~~ The public may not use the utility services of the State Facilities other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of ~~an Event or Exhibit~~ **Public Use** authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Facilities or the equipment or apparatus using utility service fails to comply with applicable rules or codes.

~~(3-27-13)~~(4-5-13)T

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, Security Personnel and state employees or officials may direct all persons off of the State Facilities and delay or postpone any ~~Event, Exhibit or other~~ activity until the emergency or threat is abated.

~~(3-27-13)~~(4-5-13)T

(BREAK IN CONTINUITY OF SECTIONS)

317. HEALTH, SAFETY, AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the State Facilities in reasonably clean condition after use, including depositing all trash in designated receptacles.

(3-27-13)

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the ~~Event or Exhibit~~ use.

~~(3-27-13)~~(4-5-13)T

03. Public Health. No person shall excrete human waste at the State Facilities except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine.

(3-27-13)

04. Fireworks. No person shall possess or use fireworks at the State Facilities. (3-27-13)

318. -- 399. (RESERVED)

400. LIABILITY AND INDEMNIFICATION.

01. User Retains Liability. Individuals, entities, and organizations using the State Facilities are responsible and liable for all suits, damages, claims or liabilities arising from their use of the State Facilities. The state of Idaho shall have no liability for injury to private property, including posters, placards, banners, signs, equipment, tables, materials, and displays at the State Facilities. ~~(3-27-13)~~(4-5-13)T

02. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. (3-27-13)

03. Indemnification. Any individual, entity, or organization permitted to use the State Facilities is deemed to agree to indemnify the state of Idaho from and against all claims, demands, actions, or causes of action, together with any and all losses, costs, or related expenses asserted by any group or persons for bodily injury or damage to property arising out of or in any way connected with the use of the State Facilities by the user. ~~(3-27-13)~~(4-5-13)T

04. No Endorsement. Action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in ~~an Event or Exhibit~~ Public Use of the State Facilities. ~~(3-27-13)~~(4-5-13)T

IDAPA 38 - DEPARTMENT OF ADMINISTRATION
38.04.08 - RULES GOVERNING USE OF THE STATE CAPITOL EXTERIOR
DOCKET NO. 38-0408-1301
NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 5, 2013.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5709, 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 May 15, 2013.

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 Idaho Legislature rejected certain provisions of IDAPA 38.04.08 during the 2013 session. This action created unnecessary definitions and necessitated clarifications. The chapter was further revised to reflect informal requests of legislators during rules reviews hearings and to address ambiguities noted by other parties.

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

The revisions confer a benefit to the public by clarifying the requirements for use of the state capitol exterior.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the majority of the revisions are simple in nature and necessary for clarity. Some of the ambiguities clarified were identified by affected interests. The remaining revisions reflect the request of legislators and consensus with the representatives of affected interests, including those present at 2013 legislative hearings, is unlikely.

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 temporary and proposed rule, contact Teresa Luna, Director, at (208) 332-1827.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 22, 2013.

DATED this 5th day of April, 2013.

Teresa Luna, Director
Department of Administration
650 W. State St.
P. O. Box 83720
Boise, ID 83720-0013
Phone: (208) 332-1827
Fax: (208) 334-2307

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 38-0408-1301**

010. DEFINITIONS.

- 01. Camping.** Any activity prohibited under Section 67-1613, Idaho Code. (3-27-13)
- 02. Commemorative Installation.** Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (3-27-13)
- 03. Department.** The Department of Administration. (3-27-13)
- 04. Director.** The Director of the Department of Administration or his designee. (3-27-13)
- ~~**05. Event.** Any press conference, performance, ceremony, presentation, meeting, rally, reception, demonstration, protest, educational tour or gathering of people held on the State Capitol Exterior. As used in this definition, a rally is a gathering of two (2) or more people. (3-27-13)~~
- ~~**06. Exhibit.** Any temporary Commemorative Installation and any attended or unattended display including, but not limited to, equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (3-27-13)~~
- ~~**07.5. Jefferson Steps.** The building entrance at the second floor of the State Capitol, the steps extending from the entrance, and the hard surface extending between the steps and the public sidewalk along Jefferson Street. (3-27-13)~~
- ~~**08. Permit.** A written authorization issued by the Director allowing use of the State Capitol Exterior as set forth in the Permit. A Permit serves as a reservation to use a portion of the State Capitol Exterior with the priority for use set forth in Subsection 200.04 of these rules. (3-27-13)~~
- ~~**09. Private Event or Private Exhibit.** Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (3-27-13)~~
- ~~**10. Public Use.** Use that is not an Event, Private Event, Exhibit, Private Exhibit or use by a public officer, official, employee, contractor, agency, board or commission for state of Idaho business. Public Use includes, but is not limited to, the following: (3-27-13)(4-5-13)T~~
- ~~**a.** The transit of individuals through the Δ State Capitol Exterior unrelated to an Event or Exhibit; (3-27-13)(4-5-13)T~~
- ~~**b.** Incidental, short term recreational use of the State Capitol Exterior unrelated to an Event or Exhibit; and (3-27-13)~~

~~e.b.~~ ~~The conduct of Use by a public business with any state of Idaho officer, official, employee, contractor, agency, or board, or commission, officer or elected official acting on behalf of the~~ for state of Idaho ~~business; or~~ (3-27-13)(4-5-13)T

~~c.~~ State Maintenance and Improvements. (4-5-13)T

~~H09.~~ **Security Personnel.** A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (3-27-13)

~~120.~~ **State Business Day.** Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (3-27-13)

~~131.~~ **State Capitol Exterior.** The exterior of the Idaho State Capitol, the real property, the grounds, and the improvements on the exterior of the Idaho State Capitol or its grounds, all of which is located at capitol square as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The State Capitol Exterior is bounded by the following streets: State Street, Sixth Street, Jefferson Street, and Eighth Street. (3-27-13)

~~142.~~ **State Events and Exhibits.** All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (3-27-13)

~~153.~~ **State Maintenance and Improvements.** Maintenance or improvement of the State Capitol Exterior by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (3-27-13)

011. -- 199. (RESERVED)

200. USE OF STATE CAPITOL EXTERIOR.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Capitol Exterior is available for ~~use by the public for the following:~~ (3-27-13)

~~a. Events. Events shall be held only in the locations and during the hours set forth in these rules. Events shall not exclude any member of the public from attending the Event.~~ (3-27-13)

~~b. Exhibits. Exhibits shall be held only in the locations and during the hours set forth in these rules. Exhibits shall not exclude any member of the public from attending the Exhibit.~~ (3-27-13)

~~e.~~ Public Use. (3-27-13)(4-5-13)T

02. Prohibited Uses. The following uses are prohibited in the State Capitol Exterior: (3-27-13)

a. Commercial Activity. The State Capitol Exterior shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service on the State Capitol Exterior. (3-27-13)

b. Camping. (3-27-13)

c. Private Events and Private Exhibits. (3-27-13)

03. State Events and Exhibits. State Events and Exhibits may occur in any portion of the State Capitol Exterior. The Director may waive all or a portion of these rules for a State Event or Exhibit. (3-27-13)

04. **Priority of Uses.** State Maintenance and Improvements shall have priority over all other use of the State Capitol Exterior. ~~State Events and Exhibits shall have priority over public Events and Exhibits, and Public Use.~~ Public Use held under a Permit shall have priority over other ~~public Events and Exhibits and~~ Public Use. ~~(3-27-13)(4-5-13)T~~

201. ~~RESERVED PUBLIC USE DURATION.~~

~~The duration of Public Use on the State Capitol Exterior, including time for set-up and clean-up, shall not exceed seven (7) consecutive days in one location. A Public Use may continue at the State Capitol Exterior after a seven (7) consecutive day period in such location if the Public Use does not use the State Capitol Exterior for twenty-four (24) hours or more between each seven (7) consecutive day period. All items must be removed at the earlier of the conclusion of the Public Use or the end of the seven (7) consecutive day period.~~ ~~(4-5-13)T~~

(BREAK IN CONTINUITY OF SECTIONS)

203. ESTABLISHMENT OF PERIMETERS.

Security personnel and law enforcement may establish perimeters separating participants in ~~Exhibits and~~ Public Use of the State Capitol Exterior or State Events or Exhibits. Participants in and observers of any Public Use or State Events or Exhibits shall observe perimeters set pursuant to this section. ~~(3-27-13)(4-5-13)T~~

204. AREA CLOSURES.

The Director may direct that any portion of the State Capitol Exterior be closed for ~~Events, Exhibits and~~ Public Use upon a finding that the closed portion of the State Capitol Exterior has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Capitol Exterior closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Capitol Exterior. Circumstances presenting an imminent danger of damage to the State Capitol Exterior include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. ~~(3-27-13)(4-5-13)T~~

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.

The restrictions and limitations on use of the State Capitol Exterior set forth in Sections 301 through 399 of these rules shall apply to all ~~Events, Exhibits, and~~ Public Use of the State Capitol Exterior. ~~(3-27-13)(4-5-13)T~~

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. **Interference With Primary Use of State Capitol Exterior.** Events, ~~E~~xhibits, and Public Use of the State Capitol Exterior shall not interfere with the primary use of the Idaho State Capitol or the adjacent real property and improvements. The primary use of the Idaho State Capitol includes, but is not limited to, the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the Idaho State Capitol or the State Capitol Exterior. ~~(3-27-13)(4-5-13)T~~

02. **Interference With Access.** ~~Events, Exhibits, and~~ Public Use of the State Capitol Exterior shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Capitol Exterior. ~~(3-27-13)(4-5-13)T~~

302. ~~HOURS AND LOCATIONS OF USE.~~

01. **~~Hours-Locations.~~** ~~The hours for Events and Exhibits~~ In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire and safety codes, Public Use on the State Capitol Exterior ~~are as follows~~ shall be: ~~(3-27-13)(4-5-13)T~~

a. On the Jefferson Street Steps or on hard surfaces, including concrete and granite, on the State Capitol Exterior; and (4-5-13)T

b. At least fifteen (15) feet from the exterior walls and windows of the Idaho State Capitol. (4-5-13)T

303. MAINTENANCE AND IMPROVEMENTS.

Notwithstanding the hours set forth in Paragraphs 302.01.a., 302.01.b., 302.01.c., and 302.01.d. of this section, Events and Exhibits Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the website address set forth in Section 005 of these rules. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. (~~3-27-13~~)(4-5-13)T

304. MOTORIZED VEHICLES.

Motorized vehicles not owned or operated by the state of Idaho or law enforcement must remain on designated roadways and parking areas. Parking of motorized vehicles shall be governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Wheelchairs, motorized scooters, and other equipment providing individual mobility to the disabled are not motorized vehicles for the purposes of this section. (3-27-13)

305. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.

Bicycles, skates, skateboards, and scooters may not be used on the State Capitol Exterior. Users of all other non-motorized transportation must remain on designated pathways during use. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising the State Capitol Exterior, users must store non-motorized transportation in a designated storage area on the State Capitol Exterior. Wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. (3-27-13)

306. ANIMALS.

The following shall apply to animals on the State Capitol Exterior: (3-27-13)

01. Wildlife. Unless authorized by the Director no person shall: (3-27-13)

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot or throw any object at a wild animal on the State Capitol Exterior. (3-27-13)

b. No person shall feed, give or offer food or any noxious substance to a wild animal on the State Capitol Exterior. (3-27-13)

02. Domestic Animals. (3-27-13)

a. Domestic animals are not allowed on the State Capitol Exterior unless leashed and under the control of the person bringing the animal to the State Capitol Exterior. (3-27-13)

b. The person bringing the animal to the State Capitol Exterior shall have in his possession the equipment necessary to remove the animal's fecal matter and shall immediately remove all fecal matter deposited by the animal. (3-27-13)

307. LANDSCAPING.

No person other than state employees or contractors designated by the Director shall: (3-27-13)

01. Plants. Damage, cut, carve, transplant or remove any plant including, but not limited to, trees, on the State Capitol Exterior. (3-27-13)

02. Grass. Dig in or otherwise damage grass areas on the State Capitol Exterior. (3-27-13)

03. Irrigation Equipment. Interfere with, damage or remove irrigation equipment on the State Capitol Exterior. (3-27-13)

04. Landscaping Materials. Move or alter landscaping materials on the State Capitol Exterior including, but not limited to, rock, edging materials, and bark or mulch. (3-27-13)

05. Climbing. Climb or scale buildings, Commemorative Installations, trees, fences, posts or other improvements on the State Capitol Exterior. (3-27-13)

3078. FOOD AND BEVERAGES. Consumption of food and beverages on the State Capitol Exterior is subject to the following: (3-27-13)

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the State Capitol Exterior. (3-27-13)

02. Alcohol. Alcohol may not be consumed or distributed on the State Capitol Exterior. (3-27-13)

3089. SMOKING. All persons shall observe the smoke free entrance notices and shall smoke only in designated areas of the State Capitol Exterior. (3-27-13)

3109. FIRES, CANDLES, AND FLAMES. No fires, candles or other sources of open flame are permitted on the State Capitol Exterior. (3-27-13)

3101. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (3-27-13)

02. Railings. No items may be placed on railings and no persons shall sit or stand on railings. (3-27-13)

03. Tossing or Dropping Items. No items may be tossed or dropped over railings or from one level of the Idaho State Capitol or improvements on the grounds of the State Capitol Exterior to another level or to the ground. (3-27-13)

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the State Capitol Exterior, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. (3-27-13)

05. Attaching, Affixing, Leaning or Propping Materials. Posters, placards, banners, signs, and displays, including any printed materials, shall not be affixed on any exterior surface of the State Capitol Exterior or on any permanent Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and displays must be free-standing or supported by individuals. No items may be leaned or propped against any exterior surface of the State Capitol Exterior or embedded into the ground including, but not limited to, placement of a stake, post or rod into the ground to support materials. (3-27-13)

06. Materials Causing Damage to Surfaces. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface on the State Capitol Exterior or any systems or utilities of the State Capitol Exterior including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. (3-27-13)

07. Free Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the State Capitol Exterior that such material is not discarded outside of designated trash

receptacles. (3-27-13)

08. Surface Markings. Users shall not use any material to mark on any surface of the State Capitol Exterior including chalk, paint, pens, ink, or dye. (3-27-13)

31~~2~~3. ITEMS SUBJECT TO SEARCH.

To enhance security and public safety, Security Personnel and law enforcement may inspect: (3-27-13)

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. (3-27-13)

02. Items. Items brought onto the State Capitol Exterior, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property on the State Capitol Exterior. (3-27-13)

31~~2~~3. PROHIBITED ITEMS.

The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the State Capitol Exterior: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or law enforcement may direct that any person at the State Capitol Exterior immediately remove from the State Capitol Exterior any club, bat, or other item that can be used to injure, damage, or harm persons or property. (3-27-13)

~~313. RESERVED~~

314. UTILITY SERVICE.

~~Events, Exhibits, and~~ The public may not use the utility services of the State Capitol Exterior other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of ~~an Event or Exhibit~~ **Public Use** authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Capitol Exterior or the equipment or apparatus using utility service fails to comply with applicable rules or codes. ~~(3-27-13)~~ **(4-5-13)T**

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, security personnel and state employees or officials may direct all persons off of the State Capitol Exterior and delay or postpone any ~~Event, Exhibit, Public Use or other~~ activity until the emergency or threat is abated. ~~(3-27-13)~~ **(4-5-13)T**

(BREAK IN CONTINUITY OF SECTIONS)

317. HEALTH, SAFETY AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the State Capitol Exterior in reasonably clean condition after use, including depositing all trash in designated receptacles. (3-27-13)

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the ~~E~~vent or ~~E~~xhibit. ~~(3-27-13)~~ **(4-5-13)T**

03. Public Health. No person shall excrete human waste at the State Capitol Exterior except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. (3-27-13)

04. Fireworks. No person shall possess or use fireworks on the State Capitol Exterior. (3-27-13)

318. -- 399. (RESERVED)

400. PERMITS.

01. **Use Without a Permit.** A Permit grants a reservation providing priority for use of the area specified in the Permit as set forth in Subsection 200.04 of these rules. Applicants desiring to obtain a Permit for use of the State Capitol Exterior outside of the Permit areas, hours or duration or who have not submitted an application within the application period may use the State Capitol Exterior, subject to the provisions of these rules, on a first-come, first used basis. Permits will be issued to groups of two (2) or more people. ~~(3-27-13)~~(4-5-13)T

02. **Permit Areas, Hours and Duration, and Number of Participants.** ~~(3-27-13)~~(4-5-13)T

a. The Director will consider and grant Permits only for ~~Event or Exhibit~~ **Public Use** of the Jefferson Street Steps. ~~(3-27-13)~~(4-5-13)T

b. The Director will issue Permits reserving use of the Jefferson Street Steps only for the period between the hours of 7 a.m. and 6 p.m. on State Business Days. ~~(3-27-13)~~(4-5-13)T

c. The duration of a Permit will not exceed four (4) consecutive hours. (3-27-13)

d. The Director will issue a Permit only for Public Use involving two (2) or more persons. (4-5-13)T

03. **Application Period.** Permit applications must be received and complete at least ~~five~~ two (52) State Business Days prior to the requested date and time period of the Permit. The Department will not accept applications submitted more than six (6) months prior to the requested date of the Permit. ~~(3-27-13)~~(4-5-13)T

04. **Validity.** Permits are valid only for the dates, times, and locations specified on the Permit as approved by the Director. (3-27-13)

05. **Distribution.** Permits shall be granted by the Director on a first-come, first-served basis, subject to Subsection 200.03 of these rules. Only one (1) Permit will be granted for the Jefferson Street Steps during any period of time. (3-27-13)

06. **Application Requirements.** Applications for a Permit shall be in writing on a form prescribed by the Director and available at the office of the Division of Public Works and the Department's website. The Director will only process applications that are complete and signed by the individual making a request or an authorized representative of the entity or organization making the request. The Director may make reasonable inquiry to confirm the accuracy of the application and the authority of the party signing the application. (3-27-13)

07. **Fees and Costs.** There is no fee for a Permit. Individuals, entities, and organizations may be charged for direct costs as set forth in the Permit including, but not limited to, the following: trash collection, janitorial services, and security services. (3-27-13)

08. **Conditions.** The Director may impose reasonable conditions on the use of the State Capitol Exterior in the Permit for the purpose of protecting persons and property. Conditions may include the acquisition of liability insurance and a bond as security for costs arising from the use. (3-27-13)

09. **Transferability.** Permits are non-transferable. (3-27-13)

401. APPROVALS AND DENIALS OF A PERMIT APPLICATION.

01. **Period for Approval or Denial.** The Department will approve or deny a complete application within two (2) State Business Days of the submission of the application. ~~The failure of the Department to issue a Permit within (2) State Business Days of the submission of a complete application shall be deemed a denial of the application.~~ ~~(3-27-13)~~(4-5-13)T

- 02. Basis for Denial.** Permits may be denied for one (1) or more of the following: (3-27-13)
- a.** A Permit has been granted for all or part of the requested location during all or part of the requested time period. (3-27-13)
 - b.** A public entity or official will be using all or part of the requested location during all or part of the requested time period. (3-27-13)
 - c.** The requested use would violate any provision of these rules or applicable law. (3-27-13)
 - d.** These rules do not authorize the use for the location or times requested or do not authorize the issuance of a Permit for the location requested. (3-27-13)
 - e.** The Permit application is incomplete, contains a material falsehood, or contains a material misrepresentation. (3-27-13)
 - f.** The Permit applicant has not certified that the applicant will comply with these rules or applicable law. (3-27-13)
 - g.** The party signing the application is not legally competent to bind themselves or the organization or entity submitting the application. (3-27-13)
 - h.** The individual, organization or entity submitting the application: (3-27-13)
 - i.** Failed to pay costs or damages arising from an earlier use of any state facility; (3-27-13)
 - ii.** Made a material misrepresentation regarding the nature or scope of the use on a prior Permit application; (3-27-13)
 - iii.** Violated the terms of prior Permits issued to the individual, organization or entity; or (3-27-13)
 - iv.** Violated any applicable law in the course of ~~a~~ previous ~~Event or Exhibit~~ Public Use of state of Idaho facilities. ~~(3-27-13)~~(4-5-13)T
 - i.** The requested use would cause a clear and present danger to the orderly processes of state of Idaho government or to the use of the State Capitol Exterior due to advocacy of: (3-27-13)
 - i.** The violent overthrow of the government of the United States, the state of Idaho, or any political subdivision thereof; (3-27-13)
 - ii.** The willful damage or destruction, or seizure and subversion of public property; (3-27-13)
 - iii.** The forcible disruption or impairment of or interference with the regularly schedule functions of the state of Idaho; (3-27-13)
 - iv.** The physical harm, coercion, intimidation or other invasions of the lawful rights of public officials or the public; or (3-27-13)
 - v.** Other disorders of a violent nature. (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

500. LIABILITY AND INDEMNIFICATION.

01. User Retains Liability. Individuals, entities, and organizations using the State Capitol Exterior are responsible and liable for all suits, damages, claims or liabilities arising from their use of the State Capitol Exterior. The state of Idaho shall have no liability for injury to private property, including posters, placards, banners, signs, equipment, tables, materials, and displays on the State Capitol Exterior. ~~(3-27-13)~~(4-5-13)T

02. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. (3-27-13)

03. Indemnification. Any individual, entity or organization permitted to use the State Capitol Exterior is deemed to agree to indemnify the state of Idaho from and against all claims, demands, actions or causes of action, together with any and all losses, costs or related expenses asserted by any group or persons for bodily injury or damage to property arising out of or in any way connected with the permittee's use of the State Capitol Exterior. ~~(3-27-13)~~(4-5-13)T

04. No Endorsement. The grant of a Permit and any action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in an Event or Exhibit Public Use of the State Facilities. ~~(3-27-13)~~(4-5-13)T