

Dear Senators HEIDER, Nuxoll, Schmidt, and  
Representatives WOOD, Packer, Rusche:

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

IDAPA 16.04.02 - Idaho Telecommunication Service Assistance Program Rules - Proposed Rule  
(Docket No. 16-0402-1501);

IDAPA 16.04.13 - Rules Governing the Emergency Food Assistance Program - Proposed Rule  
(Docket No. 16-0413-1501);

IDAPA 16.04.14 - Rules Governing the Low Income Home Energy Assistance Program - Proposed  
Rule (Docket No. 16-0414-1501);

IDAPA 16.04.16 - Weatherization Assistance Program in Idaho - Proposed Rule (Docket No.  
16-0416-1501).

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 11/05/2015. 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 12/07/2015.

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 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

**FROM:** Legislative Research Analyst - Elizabeth Bowen

**DATE:** October 19, 2015

**SUBJECT:** Department of Health and Welfare

IDAPA 16.04.02 - Idaho Telecommunication Service Assistance Program Rules - Proposed Rule (Docket No. 16-0402-1501)

IDAPA 16.04.13 - Rules Governing the Emergency Food Assistance Program - Proposed Rule (Docket No. 16-0413-1501)

IDAPA 16.04.14 - Rules Governing the Low Income Home Energy Assistance Program - Proposed Rule (Docket No. 16-0414-1501)

IDAPA 16.04.16 - Weatherization Assistance Program in Idaho - Proposed Rule (Docket No. 16-0416-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.04.02, 16.04.13, 16.04.14, and 16.04.16.

#### 16.04.02

This rule revises language to align with state policies relating to the Telecommunication Services Assistance Program. Specifically, the rule removes outdated language and updates definitions. Negotiated rulemaking was not conducted due to the nature of the rule change. There is no anticipated impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Section 56-901, Idaho Code.

#### 16.04.13

This rule revises language to align with state policies relating to the Emergency Food Assistance Program. Specifically, the rule removes outdated language and updates definitions. Negotiated rulemaking was not conducted due to the nature of the rule change. There is no anticipated impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 56-202 and 56-203, Idaho Code.

#### 16.04.14

This rule revises language to align with state policies relating to the Low Income Home Energy Assistance Program. Specifically, the rule removes outdated language and updates definitions and other provisions. Negotiated rulemaking was not conducted due to the nature of the rule change. There is no anticipated impact

on the state general fund. The Department states that this rulemaking is authorized pursuant to Section 56-202, Idaho Code.

16.04.16

This rule revises language to align with state policies relating to the Weatherization Assistance Program. Specifically, the rule removes outdated language and updates definitions and other provisions. Negotiated rulemaking was not conducted due to the nature of the rule change. There is no anticipated impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 56-202 and 56-203, Idaho Code.

cc: Department of Health and Welfare  
Tamara Prisock

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.02 - IDAHO TELECOMMUNICATION SERVICE ASSISTANCE PROGRAM RULES

DOCKET NO. 16-0402-1501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-901, Idaho Code, and 47 CFR Sections 54.101 through 54.422.

**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, 2015.

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 change is needed to align these rules with the state policies and the Department's current business practices for contracting with qualified entities to provide services as needed for the Telecommunication Service Assistance Program in Idaho. These rules remove outdated information, and update definitions to reflect current practices.

**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 as a result of this rulemaking:

There is no anticipated fiscal impact to the state general fund as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature and aligns rules with federal limits.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sara Herring at (208) 334-5752.

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, 2015.

DATED this 28th Day of August, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
phone: (208) 334-5564; fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0402-1501  
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

**01. Assistance Rate Discount.** A monthly discount to eligible “lifeline” subscribers for basic local service under the Idaho Telecommunication Service Assistance Program (ITSAP) authorized in Sections 56-901 through 56-904, and 62-610, Idaho Code. (4-4-13)

~~**02. Community Action Agency.** A private, non profit organization serving the low income population in specified counties of the state which meet the requirements to be designated as a community action agency according to the Community Services Block Grant Act, and has entered into a contract with the Idaho Department of Health and Welfare for the provision of ITSAP services. (4-4-13)~~

~~**032. Department.** The Idaho Department of Health and Welfare or its designee. (3-5-91)( )~~

**043. Eligibility Application.** The current Participant Assessment Application form or the Application for Assistance (AFA) form. (7-1-99)

~~**054. Eligible Basic Local Service.** A single telecommunication service at the eligible subscriber household. (3-20-14)~~

~~**065. Federal Poverty Guidelines (FPG).** The poverty guidelines issued annually by the Department of Health and Human Services (HHS). The federal poverty guidelines are available on the U.S. Health and Human Services at <http://aspe.hhs.gov/poverty>. (4-4-13)~~

~~**076. Head of Household.** The adult member of a household responsible for payment of at least fifty percent (50%) of the cost of the basic local service. (4-4-13)~~

~~**087. Household.** A household is either an individual living alone or a group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen (18) years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him, both people shall be considered part of the same household. Children under the age of eighteen (18) living with their parents or guardians are considered to be part of the same household as their parents or guardians. (4-4-13)~~

~~**098. Income.** Income is the gross amount of money actually received in the recipients household from all sources. (4-4-13)~~

~~**109. ITSAP.** Idaho Telecommunication Service Assistance Program. (4-4-13)~~

~~**110. Lifeline.** ITSAP component that provides a monthly discount rate to eligible subscribers on their basic local service costs. (4-4-13)~~

~~**121. Provider.** The eligible telecommunication carrier providing basic local service to Idaho residents. (4-4-13)~~

~~**132. Recipient.** A person who is determined eligible for ITSAP. (4-4-13)~~

~~**143. Subscriber.** A person applying for basic local service or, in whose name the basic local service is listed. The subscriber does not need to be the head of the household. (4-4-13)~~

011. -- 099. (RESERVED)

100. ASSISTANCE ELIGIBILITY REQUIREMENTS.

01. **Head of Household.** A recipient must be the head of the household. (4-4-13)

02. **Application.** A person must complete an application ~~with the Department or Community Action Agency~~ on behalf of ~~his~~ the household, listing all members. The application may be completed by a person other than the head of the household. ~~(7-1-99)~~( )

03. **Income Limit.** The household's gross income must be at or below one hundred and thirty-five percent (135%) of the Federal Poverty Guideline (FPG). Households receiving any type of state or federal assistance with income limits at or below one hundred and thirty-five percent (135%) of the FPG are income eligible for ITSAP. (4-4-13)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.13 - RULES GOVERNING THE EMERGENCY FOOD ASSISTANCE PROGRAM

DOCKET NO. 16-0413-1501

#### 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 56-202 and 56-203, Idaho Code, and Sections 201 through 212 of Public Law 98-8 as amended.

**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, 2015.

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 change is needed to align these rules with the state policies and the Department's current business practices for contracting with qualified entities to provide services as needed for the Emergency Food Assistance Program in Idaho. These rules remove outdated information and update definitions and references to reflect current practices.

**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 as a result of this rulemaking:

There is no anticipated fiscal impact to the state general fund or any other funds as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature and aligns rules with federal limits.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sara Herring at (208) 334-5752.

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, 2015.

DATED this 28th Day of August, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
phone: (208) 334-5564; fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0413-1501**  
**(Only Those Sections With Amendments Are Shown.)**

**004. DEFINITIONS.**

For the purpose of these rules the following terms are used, as defined herein: (9-1-85)

**01. Allocation.** The state of Idaho's share of the Emergency Food Assistance Program monies as determined by the funding formula contained in 7 CFR 250, 251, the Emergency Food Assistance Program. (10-1-94)

**02. Applicant Household.** A household which has made application to receive USDA surplus commodities and has not been determined an eligible recipient. (4-5-00)

**03. Application.** The action by which a household completes in writing an application form to be considered for receipt of USDA surplus commodities. (10-1-94)

**04. Commodities.** Surplus and purchased food items made available by the Commodity Credit Corporation for distribution to low-income households. (10-1-94)

**05. Community Action Agency.** A private non-profit organization serving the low-income population in specified counties of the state ~~with which the Department has entered into a contract for the provision of services for purposes of TEFAP which has been designated as an eligible entity according to the Community Services Block Grant Act 42 USC 9901 et seq.~~ (4-5-00)(    )

**06. Community Action Program.** A program of services offered by an office or offices for the Community Action Agency. (9-1-85)

**07. Department.** The Idaho Department of Health and Welfare ~~or its designee.~~ (12-31-91)(    )

**08. Eligible Entities.** Agencies eligible to administer the TEFAP at the local level who have entered into a contract with the Department and include the following: (4-5-00)

**a.** Community Action Agencies; (9-1-85)

**b.** Community Action Programs operating programs funded under the Community Services Block Grant Act; (9-1-85)

**c.** Other incorporated non-profit agencies; (4-5-00)

**d.** Government agencies; or (4-5-00)

**e.** Disaster Relief Programs. (4-5-00)

**09. Eligible Household.** A household which meets the standard of eligibility set forth in these rules. (9-1-85)

**10. Emergency Feeding Organization (EFO).** Organizations who have entered into an agreement with an eligible entity for the purposes of distributing USDA Commodities. (4-5-00)

**11. Household.** A household is one (1) of the following: (4-5-00)

**a.** An individual living alone; or (9-1-85)

**b.** A group of individuals living together in common living quarters who share the cost and preparation of meals. (9-1-85)



- 12. Income.** Total household income. (4-5-00)
- 13. Earnings from Self-Employment.** Earnings from self-employment include net income plus any depreciation and depletion previously deducted as expenses. This includes farm or business income. (4-5-00)
- 14. Poverty Guideline.** The official poverty guideline established by the Secretary of Health and Human Services in accordance with the Omnibus Reconciliation Act, Section 673(2). (10-1-94)
- 15. Program Year.** October 1st through September 30th. (2-11-88)
- 16. Proof of Income.** Written self-declaration of total household income. (4-5-00)
- 17. Service Area.** The state of Idaho is divided into the following seven (7) service areas for the purpose of fund distribution: (9-1-85)
- a.** Region I -- Kootenai County, Shoshone County, Benewah County, Bonner County, and Boundary County. (9-1-85)
  - b.** Region II -- Nez Perce County, Clearwater County, Idaho County, Latah County, and Lewis County. (9-1-85)
  - c.** Region III -- Canyon County, Adams County, Gem County, Payette County, Washington County, Valley County, and Boise County. (9-1-85)
  - d.** Region IV -- Ada County, Elmore County, and Owyhee County. (9-1-85)
  - e.** Region V -- Twin Falls County, Blaine County, Cassia County, Gooding County, Camas County, Jerome County, Lincoln County, and Minidoka County. (9-1-85)
  - f.** Region VI -- Bannock County, Bear Lake County, Bingham County, Caribou County, Franklin County, Oneida County, and Power County. (9-1-85)
  - g.** Region VII -- Bonneville County, Butte County, Clark County, Fremont County, Jefferson County, Lemhi County, Madison County, and Teton County. (9-1-85)
- 18. State Distribution Rate.** The amount of commodities an eligible household can receive based on the number of persons in their household. (9-1-85)

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. CASE RECORD.**

The [CAA Department](#) will maintain accurate and complete records on a household's participation. This record must be kept *in a permanent CAA file* for a period of at least three (3) years. (4-5-00)( )

**007. APPLICANT RIGHTS.**

Households applying for TEFAP surplus commodities have certain rights. These rights include, but are not limited to, the following: (9-1-85)

**01. Right to Apply.** Any household wishing to apply must be given the opportunity to apply for TEFAP surplus commodities. All applications must be in writing on forms prescribed by DHW. (9-1-85)

**02. Civil Rights.** The rights of applicant households must be respected under the U.S. and Idaho Constitutions, the Social Security Act, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant provisions of federal and state law, including the avoidance of practices which violate a person's privacy or subject him to harassment. (9-1-85)( )

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-1501

#### 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 the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C Sections 8621 to 8629, and by provisions of Section 56-202, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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 change is needed to align these rules with the state policies and the Department's current business practices for contracting with qualified entities to provide services as needed for the Low Income Home Energy Assistance Program in Idaho. These rules remove outdated information, update definitions and references to reflect current practices.

**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 as a result of this rulemaking:

There is no anticipated fiscal impact to the state general fund or any other funds as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature and aligns rules with federal limits.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sara Herring at (208) 334-5752.

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, 2015.

DATED this 28th Day of August, 2015.

Tamara Prisock  
DHW - Administrative Rules Unit  
450 W. State Street - 10th Floor  
P.O. Box 83720  
Boise, ID 83720-0036  
Phone: (208) 334-5564; Fax: (208) 334-6558  
e-mail: [dhwrules@dhw.idaho.gov](mailto:dhwrules@dhw.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0414-1501  
(Only Those Sections With Amendments Are Shown.)

**004. INCORPORATION BY REFERENCE.**

~~The following document is incorporated by reference in this chapter of rule: Low Income Home Energy Assistance Program (LIHEAP) Intake Manual, 2006. The manual is available on the Internet at <http://www.healthandwelfare.idaho.gov/>. The manual is also available at the mailing address listed in Section 005 of this rule, and at Community Action Agencies~~ **No documents are incorporated by reference into this chapter of rules.** (3-30-07)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

~~Definitions applicable to~~ **For purposes of** this chapter of rules, **the following terms apply.** (3-30-07)(    )

~~**01.** **Community Action Agency.** A private non-profit organization serving the low income population in specified counties of the state with which the Department has entered into a contract for the provision of services for purposes of LIHEAP.~~ (3-30-07)

**021.** **Crisis Assistance.** Energy assistance provided to an eligible participant household to reduce or eliminate an energy related health threatening situation to the household. (3-30-07)

~~**032.** **Department.** The Department of Health and Welfare or its designee.~~ (3-30-07)

**043.** **Federal Poverty Guidelines (FPG).** The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS). The federal poverty guidelines are available on the U.S. Health and Human Services website at: <http://aspe.hhs.gov/poverty/>. (3-29-12)

~~**054.** **Fraud.** Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts.~~ (7-1-99)

~~**065.** **Head of Participant Household.** The person designated by the household members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written.~~ (7-1-99)

~~**076.** **Income.** Income is the gross amount of moneys actually received in the participant household from all sources.~~ (4-5-00)

~~**087.** **Intake Manual.** Manual used by ~~community action agencies~~ **the Department** for procedural policy and benefit calculation factors, ~~which is published annually by the Department.~~ (3-30-07)(    )~~

~~**098.** **Participant.** An individual or group of individuals who has made application for the Low Income Home Energy Assistance Program from the state of Idaho.~~ (3-30-07)

~~**109.** **Participant Household.** A participant household is one (1) of the following:~~ (3-30-07)

~~a. An individual who lives alone; or~~ (3-30-07)

~~b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or they make undesignated payments for energy in the form of rent.~~ (3-30-07)

~~140.~~ **Primary Fuel.** The type of fuel declared by the participant household to be the major source of their home heating. (7-1-99)

~~121.~~ **Undocumented Resident.** Individuals who enter the United States illegally and who have not obtained legal resident status. (3-30-07)

~~132.~~ **Vendor.** A utility company or other provider of fuel utilized for home heating. (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**102. PARTICIPANT RIGHTS.**

The participant has rights protected by federal and state laws and Department rules. The Department *or their designee* must inform the participant of their rights during the application process and eligibility determination, as follows: (7-1-99)(    )

**01. Right to Apply.** Any participant household wishing to apply must be given the opportunity, without delay, to apply for LIHEAP benefits. All participants must apply in writing. (7-1-99)

**02. Right to a Hearing.** Rules governing hearing rights are contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-30-01)

**03. Civil Rights.** The rights of participant households must be respected under the U.S. and Idaho Constitutions, the Social Security Act, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant provisions of federal and state law, including the avoidance of practices which violate a person's privacy or subjection to harassment. (7-1-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. INTAKE PROCESS.**

Low-income participants *may must* complete an application for LIHEAP benefits *at a CAA and submit the application to the Department*. The *CAA will submit the* participant's household information contained on the application *will be entered in* to the Department's on-line computer system for issuance of eligibility notification. (7-1-99)(    )

**201. APPLICATION PROCESS.**

A participant must be provided a prompt opportunity to complete an application for assistance. Application forms must contain a statement which clearly explains participant's civil and criminal liability for the truthfulness of the information included on the forms; and their right to a hearing according to Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings." (7-1-99)

**01. Date of Application.** The participant application process begins the date the completed and signed application and all supporting forms are received by the *CAA Department*. (7-1-99)(    )

**02. Participant Representation.** A participant household may be assisted by a person or persons of their choice and, when accompanied by such persons, may be represented by them. (7-1-99)

**03. Signature.** The application must be signed by the participant designated at the head of household, or their designee. (7-1-99)

**a.** Applications signed by a designee must have a letter of authorization or power of attorney from the participant included in the file. (3-15-02)

b. Employees of the ~~CAA or the~~ Department must not be designated to sign the application. (7-1-99)( )

**04. Signature by Mark.** A signature by mark requires two (2) witnesses. The signatures and addresses of the witnesses must appear on the application, followed by the word “witness.” (7-1-99)

**05. Assistance with Application.** When completing the application forms or obtaining required documentation, each participant must be provided assistance from the ~~CAA~~ Department, including the provision for interpreters for participant households with limited or non-English speaking skills. (7-1-99)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**204. BENEFIT DETERMINATION.**

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

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

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

**03. Annual Benefit Calculation Factor.** Annual benefit calculation factors are determined each year based on the amount of federal funding for the upcoming program year. The particular factor used for a household’s benefit calculation is determined by the household’s energy cost burden (high, medium or low) expressed as a percentage of annualized income. A heating burden of zero percent (0%) to five percent (5%) is low, six percent (6%) to ten percent (10%) is medium, and eleven percent (11%) or greater is high. Benefit calculation methodology and the current benefit calculation factors are published in the Intake Manual used for LIHEAP, available at the Department ~~or on its website, and at community action agencies.~~ (3-30-07)( )

**04. Adjusting LIHEAP Benefit.** Households containing at least one (1) of the following may be eligible for an adjusted benefit. The adjusted benefit amounts and eligibility levels will be published annually in the Intake Manual used for LIHEAP, available at the Department ~~or on its website, and at community action agencies.~~ (3-30-07)( )

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

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

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

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.04.16 - WEATHERIZATION ASSISTANCE PROGRAM IN IDAHO**

**DOCKET NO. 16-0416-1501**

**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 56-202 and 56-203, Idaho Code; also to Part A of the Weatherization Assistance for Low-Income Persons, 42 U.S.C. 6861-6872, and the Department of Energy Organization Act, 42 U.S.C. 7101.

**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, 2015.

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 change is needed to align these rules with the state policies and the Department's current business practices for contracting with qualified entities to provide services as needed for the Weatherization Assistance Program in Idaho. These rules remove outdated information, update definitions and reference to reflect current practices.

**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 as a result of this rulemaking:

There is no anticipated fiscal impact to the state general fund or any other funds as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature and aligns rules with federal limits.

**INCORPORATION BY REFERENCE:** No materials are being incorporated by reference into these rules.

**CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sara Herring at (208) 334-5752.

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, 2015.

DATED this 28th Day of August, 2015.

Tamara Prisock  
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0416-1501  
(Only Those Sections With Amendments Are Shown.)

**010. DEFINITIONS AND ABBREVIATIONS.**

For purposes of this chapter of rules, the following terms and abbreviations *are used as defined apply.* (5-8-09)( )

~~01. Community Action Agency (CAA). A private corporation or public agency established according to the Economic Opportunity Act of 1964, 42 USC 2701, et seq., which is authorized to administer funds received from federal, state, local, or private funding entities to assess, design, operate, finance, and oversee anti-poverty programs.~~ (5-8-09)

**021. Contractor.** A weatherization project entity at the sub-state level which receives a contract from the Department to carry out activities of this program. (5-8-09)

~~032. Cosmetic Items.~~ Items which, when installed, will not reduce energy costs in a cost effective manner, such as finishes, decorative materials, elevation materials, aluminum siding, board and bat, clapboard, brick, shakes, or asphalt siding. (5-8-09)

~~043. Department.~~ The Idaho Department of Health and Welfare or its designee. (5-8-09)

~~054. DOE.~~ The U.S. Department of Energy. (5-8-09)

~~065. Dwelling Unit.~~ A house, including a stationary mobile home, an apartment, a group of rooms or a single room occupied as separate living quarters. (5-8-09)

**a. Rental Dwelling Unit.** A dwelling unit occupied by a person who pays rent for use of the dwelling unit. (5-8-09)

**b. Single-Family Dwelling Unit.** A structure containing no more than one (1) dwelling unit. (5-8-09)

~~076. Elderly Person.~~ A person who is sixty (60) years of age or older. (5-8-09)

~~087. EPA.~~ The U.S. Environmental Protection Agency. (5-8-09)

~~098. Family Unit.~~ All persons living together in a dwelling unit. (5-8-09)

~~109. Grantee.~~ The Idaho Department of Health and Welfare. (5-8-09)

~~110. Household.~~ All persons living together in a dwelling unit. (5-8-09)

~~121. Heating or Cooling Sources.~~ A device which raises or lowers the temperature within a dwelling unit that is part of the permanent heating, ventilating and air-conditioning system installed in the dwelling unit. Examples of a heating or cooling system are: furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air-conditioners, fans, or solar devices. (5-8-09)

~~132. Low-Income.~~ Income as it relates to family size which is: (5-8-09)

**a.** Determined using criteria established by the Director of the Office of Management and Budget, unless a higher level has been established by the Secretary and is necessary to carry out the purpose of this part and is consistent with the eligibility criteria established for the weatherization program under Section 222(a)(12) of the Economic Opportunity Act of 1964; (3-29-10)

**b.** The basis on which cash assistance payments have been paid during the preceding twelve (12)

month period under Titles IV and XVI of the Social Security Act, 42 USC 301, or applicable state or local law; or (5-8-09)

**c.** The basis for eligibility for assistance under the Low Income Home Energy Assistance Act of 1981. (3-29-10)

**143. Mechanical Equipment.** A control device or apparatus which is primarily designed to improve the heating or cooling efficiency of a dwelling unit, and which will permanently be affixed to an existing heating or cooling source, such as flue dampers, clock thermostats, filters, and replacements limit switches. (5-8-09)

**154. Occupants.** A single family, one (1) person living alone, two (2) or more families living together, or any other group of related or unrelated persons who share living arrangements. (5-8-09)

**165. Persons with Disabilities.** Any individual who is: (5-8-09)

**a.** Handicapped as defined in Section 7(6) of the Rehabilitation Act of 1973; (5-8-09)

**b.** Under a disability as defined in Section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in Section 102(7) of the Developmental Disabilities Services and Facilities Construction Act; or (5-8-09)

**c.** Receiving benefits under Chapter 11 or 15 of Title 38, U.S.C. (5-8-09)

**176. Regional Representative.** A Regional Representative of the U.S. Department of Energy. (5-8-09)

**187. Secretary.** The Secretary of the U.S. Department of Energy. (5-8-09)

**198. Separate Living Quarters.** Living quarters in which the occupants do not live and eat with any other persons in the structure and have direct access from the outside of the building or through a common hall or complete kitchen facilities for the exclusive use of the occupants. The occupants may be related or unrelated persons who share living arrangements, and includes shelters for homeless persons. (5-8-09)

**2019. Shelter.** A dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities. (5-8-09)

**210. Subgrantee.** An entity managing a weatherization project which receives a grant or contract of funds awarded under this program from the Department ~~or CAA.~~ (5-8-09)( )

**221. Weatherization Project.** A project conducted in a single geographical area which undertakes to weatherize dwelling units which are energy inefficient. (5-8-09)

**232. Weatherization Materials.** Items used to improve the heating or cooling efficiency of a dwelling unit, such as: (5-8-09)

**a.** Caulking and weatherstripping of doors and windows; (5-8-09)

**b.** Furnace efficiency modifications which include replacement burners, furnaces, or boilers or any combination thereof; (5-8-09)

**c.** Devices for minimizing energy loss through heating system, chimney, or venting devices; (5-8-09)

**d.** Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and (5-8-09)

**e.** Cooling efficiency modifications that include replacement air conditioners, ventilation equipment, screening and window films, and shading devices. (5-8-09)



011. -- 049. (RESERVED)

**050. FEDERAL REQUIREMENTS.**

**01. Record Keeping.** Each subgrantee receiving federal financial assistance under the Weatherization Assistance Program must keep records as required by the DOE, which include the following: (5-8-09)

- a. Records that fully disclose the amount and disposition by subgrantee of the funds received; (5-8-09)
- b. The total cost of a weatherization project; (5-8-09)
- c. The total expenditure to implement the weatherization plan for which such assistance was given or used; (5-8-09)
- d. The source and amount of funds for such project or program not supplied by DOE and corresponding records; (5-8-09)
- e. Documentation of the average costs incurred in weatherization of individual dwelling units; (5-8-09)
- f. Documentation of the average size of the dwelling being weatherized; (5-8-09)
- g. Documentation of the average income of households receiving assistance; and (5-8-09)
- h. Records and documentation DOE finds necessary for an effective audit and performance evaluation as determined by the DOE Financial Assistance Rule, 10 CFR Part 600, and any requirements of 10 CFR Part 440, Direct Final Rule and EPA Title 40 Part 745.86. (5-8-09)( )

~~02. Reports. Each subgrantee receiving financial assistance under the Weatherization Assistance Program must provide the Department with: (5-8-09)~~

~~a. A monthly program performance report on Form EIA-29A "Low-Income Weatherization Quarterly Report Supplement;" and (5-8-09)~~

~~b. A monthly financial report on Form EIA-298 "Financial Status Report." (5-8-09)~~

~~032. Matching Funds.~~ Financial assistance under the Weatherization Assistance Program will be used to supplement, and not to supplant, local funds, and to the maximum extent practicable as determined by DOE, to increase the amounts of local funds that would be made available in the absence of federal funds provided under the Program. (5-8-09)

~~043. Program Coordination.~~ To the maximum extent practicable, the use of weatherization assistance must be coordinated with other federal, state, local, or privately funded programs in order to improve energy efficiency and to conserve energy. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. WEATHERIZATION MATERIALS STANDARDS AND ENERGY AUDIT PROCEDURES.**

**01. Approved Weatherization Materials.** Only weatherization materials which meet or exceed standards prescribed in Appendix A to 10 CFR Part 440 may be purchased. However, unlisted materials may be approved by the state upon application from any ~~CAA~~ subgrantee. Such application must be made to DOE by the state. (5-8-09)( )

**02. Cost Effective Materials.** Except for materials to eliminate health and safety hazards allowable under 10 CFR Part 440.18(c)(15), each individual weatherization material and package of weatherization materials installed in an eligible dwelling unit must be cost-effective. (5-8-09)

**03. Energy Audit.** The energy audit procedures must assign priorities among individual weatherization materials in descending order of their cost-effectiveness according to 10 CFR Part 440. (5-8-09)

**01. -- 499. (RESERVED)**

**500. OVERSIGHT, TRAINING, AND TECHNICAL ASSISTANCE.**

**01. Audit Frequency.** The Department will ensure that audits by or on the behalf of subgrantees are conducted ~~with reasonable frequency, on a continuing basis, or at scheduled intervals, usually annually, but not less frequently than every two (2) years, in accordance with 10 CFR Part 600, and OMB Circular 110, Attachment F, as applicable~~ according to DOE requirements. (5-8-09)( )

**02. Monitoring.** The Department, as grantee for the U.S. Department of Energy Weatherization Assistance Grants, will monitor and evaluate the operation of projects carried out by the subgrantees through on-site inspections and other means to insure the effective provision of weatherization assistance in a nondiscriminatory manner for dwelling units of low-income residents of the State of Idaho. (5-8-09)