

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 52
IDAHO ADMINISTRATIVE PROCEDURE ACT

67-5201. DEFINITIONS. As used in this chapter:

(1) "Administrative code" means the Idaho administrative code established in this chapter.

(2) "Adopt" means that an agency has, under the regular rulemaking process, promulgated a temporary rule, a new rule chapter, or an amendment or repeal of a final rule that will be submitted for review by the legislature as either a temporary rule or a pending rule.

(3) "Agency" means each state board, commission, department or officer authorized by law to make rules or to determine contested cases, but does not include the legislative or judicial branches, executive officers listed in section 1, article IV of the constitution of the state of Idaho in the exercise of powers derived directly and exclusively from the constitution, the state militia or the state board of correction.

(4) "Agency action" means:

(a) The whole or part of a rule or order;

(b) The failure to issue a rule or order; or

(c) An agency's performance of, or failure to perform, any duty placed on it by law.

(5) "Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law.

(6) "Bulletin" means the Idaho administrative bulletin established in this chapter.

(7) "Chief administrative hearing officer" means the administrator of the office of administrative hearings created pursuant to section [67-5280](#), Idaho Code.

(8) "Contested case" means a proceeding that results in the issuance of an order.

(9) "Coordinator" means the administrative rules coordinator prescribed in section [67-5202](#), Idaho Code.

(10) "Document" means any executive order, notice, rule or statement of policy of an agency.

(11) "Final rule" means a rule that has been approved by the legislature and is in effect.

(12) "Hearing officer" means the chief administrative hearing officer and any hearing officers appointed by him pursuant to sections [67-5281](#) through [67-5283](#), Idaho Code, or a person appointed by an agency or board to hear a contested case.

(13) "License" means the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes.

(14) "Official text" means the text of a document issued, prescribed, or promulgated by an agency in accordance with this chapter and is the only legally enforceable text of such document. Judicial notice shall be taken of all documents issued, prescribed, or promulgated in accordance with this chapter.

(15) "Order" means an agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons.

(16) "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

(17) "Pending fee rule" means any pending rule all or a portion of which imposes or increases a fee or charge.

(18) "Pending non-fee rule" means any pending rule that is not a pending fee rule.

(19) "Pending rule" means a proposed rule that an agency has adopted under the regular rulemaking process but remains subject to legislative review, is not a final rule, and is not in effect.

(20) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character.

(21) "Proposed rule" means an agency proposal that has been adopted and remains subject to review by the legislature.

(22) "Provision of law" means all or a part of the state or federal constitution, or of any state or federal:

(a) Statute; or

(b) Rule or decision of court.

(23) "Publish" means to bring before the public by publication in the bulletin or administrative code, by electronic means or as otherwise specifically provided by law.

(24) "Rule" means all or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of this chapter and that implements, interprets, enforces, or prescribes:

(a) Law; or

(b) The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include:

(i) Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; or

(ii) Declaratory rulings issued pursuant to section [67-5232](#), Idaho Code; or

(iii) Intra-agency memoranda; or

(iv) Any written statements given by an agency that pertain to an interpretation of a rule or to the documentation of compliance with a rule.

(25) "Rule chapter" means the numeric designation of a grouping of related agency rules by the coordinator.

(26) "Rulemaking" means the process for formulation and adoption of a rule.

(27) "Standard" means a manual, guideline, criterion, specification, requirement, measurement or other authoritative principle providing a model or pattern in comparison with which the correctness or appropriateness of specified actions, practices or procedures may be determined.

(28) "Submitted for review" means that a rule has been provided to the legislature for review at a regular or special legislative session as provided in section [67-5291](#), Idaho Code.

(29) "Temporary rule" means a rule authorized by the governor to become effective before it has been submitted to the legislature for review.

[67-5201, added 1965, ch. 273, sec. 1, p. 701; am. 1980, ch. 213, sec. 1, p. 485; am. 1981, ch. 192, sec. 1, p. 339; am. 1986, ch. 318, sec. 1, p. 783; am. 1992, ch. 263, sec. 1, p. 786; am. 1993, ch. 216, sec. 101, p. 670; am. 1996, ch. 161, sec. 1, p. 530; am. 2000, ch. 203, sec. 3, p. 511; am. 2010, ch. 20, sec. 1, p. 33; am. 2022, ch. 287, sec. 1, p. 910; am. 2023, ch. 314, sec. 1, p. 956.]

67-5202. OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR. (1) There is hereby established the office of the administrative rules coordinator in the division of financial management. The coordinator shall be a nonclassified employee and shall be appointed by and serve at the pleasure of the administrator of the division of financial management. All other employees of the office of the administrative rules coordinator shall be nonclassified positions, and any persons employed to fill positions in the office of the administrative rules coordinator thereafter shall be exempt from the provisions of [chapter 53, title 67](#), Idaho Code.

(2) The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules.

(3) The coordinator shall receive all notices and rules required in this chapter to be published in the bulletin or the administrative code. The coordinator shall prescribe a uniform style, form, and numbering system which shall apply to all rules adopted by all agencies. The coordinator shall review all submitted rules for style, form, and numbering and may return a rule that is not in proper style, form, or number.

[67-5202, added 1992, ch. 263, sec. 2, p. 788; am. 1994, ch. 180, sec. 218, p. 555; am. 1996, ch. 119, sec. 1, p. 433; am. 2008, ch. 183, sec. 1, p. 555; am. 2019, ch. 74, sec. 1, p. 173.]

67-5203. PUBLICATION OF ADMINISTRATIVE BULLETIN. (1) All documents required or authorized in this chapter or by other provision of law to be published shall initially be published electronically in the bulletin. The bulletin shall be published electronically by the administrative rules coordinator not less frequently than the first Wednesday of each calendar month, but not more frequently than every other week.

(2) The bulletin shall contain all previously unpublished documents filed with the coordinator in compliance with a publication schedule established by the coordinator.

(3) Each issue of the bulletin shall contain a table of contents. A cumulative index shall be published at least every three (3) months.

(4) The following documents, if not required to be otherwise published, shall be published in the bulletin:

- (a) All executive orders of the governor;
- (b) Agency notices of intent to promulgate rules, notices of proposed rules, and the text of all proposed and pending rules, together with any explanatory material supplied by the agency;
- (c) All agency documents required by law to be published in the bulletin; and
- (d) Any legislative documents affecting a final agency rule.

(5) The text of all documents published electronically in the bulletin shall be the official text of that document until the document has been pub-

lished in the administrative code. Judicial notice shall be taken of all documents published electronically in the bulletin.

[67-5203, added 1992, ch. 263, sec. 3, p. 789; am. 1993, ch. 216, sec. 102, p. 672; am. 1993, ch. 245, sec. 1, p. 854; am. 1994, ch. 371, sec. 1, p. 1194; am. 1996, ch. 161, sec. 2, p. 532; am. 2010, ch. 21, sec. 1, p. 37.]

67-5204. PUBLICATION OF ADMINISTRATIVE CODE. (1) The administrative rules coordinator shall every year publish electronically a publication to be known as the "Idaho Administrative Code."

(2) The administrative code shall be a codification of:

- (a) All executive orders of the governor that have been published in the bulletin and have not been rescinded;
- (b) The text of all final rules;
- (c) Any legislative documents affecting a final agency rule; and
- (d) All documents required by law to be published in the administrative code.

(3) The text of all documents published electronically in the administrative code shall be the official text of that document. Judicial notice shall be taken of all documents published electronically in the administrative code.

[67-5204, added 1992, ch. 263, sec. 4, p. 789; am. 1993, ch. 216, sec. 103, p. 673; am. 1996, ch. 161, sec. 3, p. 532; am. 2010, ch. 20, sec. 2, p. 35.]

67-5205. FORMAT -- COSTS -- DISTRIBUTION -- FUNDS. (1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure, at reasonable cost from the coordinator, individual electronic copies of the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual electronic copies of and subscriptions to the administrative code, the permanent supplements thereto and the bulletin, and for rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state.

(3) The coordinator shall provide to the legislature free electronic copies of all rules subject to review by the legislature pursuant to section [67-5291](#), Idaho Code, and may distribute other free electronic copies for official use.

(4) Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this

state and other states and foreign jurisdictions. The provisions of this section include the authority to exchange, display, access and publish texts through electronic media.

(5) There is hereby created in the state treasury the administrative code fund. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the fund. All agencies that have any material published electronically in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the coordinator their respective shares of the costs of such publication and distribution of such material. All moneys placed in the fund may be appropriated to the coordinator for the administration of the provisions of this chapter and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

(6) (a) The coordinator shall charge each participating agency as follows:

(i) An annual fee for each page published electronically in the administrative code, not to exceed fifty-six dollars (\$56.00) per page.

(ii) A fee for each page published electronically in the bulletin, not to exceed sixty-one dollars (\$61.00) per page. A fee per page may be charged even though less than a full page of publication is required, however, there shall be no fee associated with any portion of a publication necessitated by or pertaining to the removal of a rule or a reduction of the regulatory obligation imposed by a rule.

(b) Each participating agency shall promptly pay into the administrative code fund such charge.

[67-5205, added 1992, ch. 263, sec. 6, p. 790; am. 1993, ch. 245, sec. 2, p. 854; am. 1994, ch. 371, sec. 2, p. 1195; am. 1996, ch. 159, sec. 23, p. 525; am. 1996, ch. 161, sec. 4, p. 533; am. 1996, ch. 162, sec. 1, p. 540; am. 2006, ch. 235, sec. 32, p. 719; am. 2008, ch. 13, sec. 2, p. 18; am. 2010, ch. 20, sec. 3, p. 35; am. 2016, ch. 185, sec. 1, p. 497; am. 2019, ch. 329, sec. 1, p. 980.]

67-5206. PROMULGATION OF RULES IMPLEMENTING ADMINISTRATIVE PROCEDURE ACT. (1) In accordance with the rulemaking requirements of this chapter, the attorney general shall promulgate rules implementing the provisions of sections [67-5240](#) through [67-5255](#), Idaho Code. The rules shall specify:

(a) Form and content to be employed in giving notice of a contested case;

(b) Procedures and standards required for intervention in a contested case;

(c) Procedures for prehearing conferences;

(d) Format for pleadings, briefs, and motions;

(e) The method by which service shall be made;

(f) Procedures for the issuance of subpoenas, discovery orders, and protective orders if authorized by other provisions of law;

(g) Qualifications for persons seeking to act as a representative for parties to contested cases;

(h) Procedures to facilitate informal settlement of matters; and

(i) Procedures for placing ex parte contacts on the record.

(2) (a) After July 1, 1993, the rules promulgated by the attorney general under this section shall apply to all agencies that do not affirmatively promulgate alternative procedures after the promulgation of the rules by the attorney general. The rules promulgated by the attorney general shall supersede the procedural rules of any agency in effect on June 30, 1993, unless that agency promulgates its own procedures as provided in paragraph (b) of this subsection.

(b) After July 1, 1993, an agency that promulgates its own procedures shall include in the rule adopting its own procedures a finding that states the reasons why the relevant portion of the attorney general's rules were inapplicable to the agency under the circumstances.

(3) With respect to contested cases and other proceedings conducted by the office of administrative hearings as authorized by this chapter, rules promulgated by the attorney general or any agency pursuant to subsection (1) of this section shall remain in full force and effect, except with respect to hearing officer qualifications, until such time as the office of administrative hearings promulgates replacement rules, and thereafter such rules of the office of administrative hearings shall govern unless otherwise required by governing federal law.

[67-5206, added 1992, ch. 263, sec. 7, p. 791; am. 1993, ch. 216, sec. 104, p. 673; am. 2022, ch. 287, sec. 2, p. 912; am. 2023, ch. 314, sec. 2, p. 958.]

67-5207. SHORT TITLE. This chapter may be cited as the "Idaho Administrative Procedure Act."

[67-5207, added 1992, ch. 263, sec. 8, p. 793.]

67-5207A. POLICY STATEMENTS -- GUIDANCE DOCUMENTS. Agency policy statements and guidance documents shall not have the force and effect of law.

[67-5207A, added 2023, ch. 252, sec. 1, p. 769.]

67-5220. NOTICE OF INTENT TO PROMULGATE RULES -- NEGOTIATED RULEMAKING. (1) Prior to the adoption, amendment or repeal of a rule, an agency shall determine whether negotiated rulemaking is feasible. The agency's determination of whether negotiated rulemaking is feasible is not subject to judicial review. If the agency determines that negotiated rulemaking is feasible, it shall publish in the bulletin a notice of intent to promulgate a rule. The notice shall contain a brief, nontechnical statement of the subject matter to be addressed in the proposed rulemaking, and shall include the purpose of the rule, the statutory authority for the rulemaking, citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking, and the principal issues involved. The notice shall also state that interested persons have the opportunity to participate with the agency in negotiated rulemaking as provided in this section and shall identify an individual to whom comments on the proposal may be sent. If the agency determines that negotiated rulemaking is not feasible, it shall explain why negotiated rulemaking is not feasible in a notice of proposed rulemaking published pursuant to section [67-5221](#), Idaho Code, and shall proceed with rulemaking as provided pursuant to this chapter. Each agency that has a website shall cause the notice of intent to

promulgate rules to be placed onto or accessible from the home page of the agency's website.

(2) The notice of intent to promulgate a rule is intended to facilitate negotiated rulemaking, a process in which all interested persons and the agency seek consensus on the content of a rule. Agencies shall proceed through such informal rulemaking whenever it is feasible to do so in order to improve the substance of proposed rules by drawing upon shared information, knowledge, expertise and technical abilities possessed by interested persons and to expedite formal rulemaking.

(3) To facilitate the achievement of the purposes of this section, agencies shall, at a minimum:

(a) Provide a reasonable period of time for interested persons to respond to the notice of intent to promulgate rules;

(b) Provide notice of meetings to interested persons who responded to the notice of intent to promulgate rules;

(c) Upon request, make available to persons attending the meetings all information that is considered by the agency in connection with the formulation of the proposed rule and that is not exempt from disclosure pursuant to [chapter 1, title 74](#), Idaho Code;

(d) Consider the recommendations of interested persons concerning the subject of the proposed rule;

(e) Establish, maintain and timely update the negotiated rulemaking schedule and a list of written comments and other documents and information pertinent to the proposed rule and make that information available to persons attending the negotiated rulemaking meeting;

(f) Prepare a written summary of unresolved issues, key information considered and conclusions reached during and as a result of the negotiated rulemaking and make that summary available to persons who attended the negotiated rulemaking meetings.

[67-5220, added 1992, ch. 263, sec. 9, p. 793; am. 1994, ch. 271, sec. 1, p. 834; am. 2012, ch. 310, sec. 1, p. 856; am. 2015, ch. 141, sec. 175, p. 518.]

67-5221. PUBLIC NOTICE OF PROPOSED RULEMAKING. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall publish notice of proposed rulemaking in the bulletin. The notice of proposed rulemaking shall include:

(a) The specific statutory authority for the rulemaking, including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking;

(b) A statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;

(c) Except as otherwise required in paragraph (d) of this subsection, 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 when the pending rule will become effective; provided however, that notwithstanding section [67-5231](#), Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule;

(d) If a notice of proposed rulemaking of the Idaho state tax commission, a specific description of any negative or positive fiscal impact greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided however, notwithstanding section [67-5231](#), Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule;

(e) The text of the proposed rule prepared in legislative format;

(f) The location, date, and time of any public hearings the agency intends to hold on the proposed rule;

(g) The manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;

(h) The manner in which persons may request an opportunity for an oral presentation as provided in section [67-5222](#), Idaho Code;

(i) The deadline for public comments on the proposed rule; and

(j) If negotiated rulemaking was not conducted, an explanation of the agency's determination that negotiated rulemaking was not feasible.

(2) (a) Coinciding with each issue of the bulletin, the coordinator shall cause the publication of an abbreviated notice with a brief description of the subject matter, showing any agency's intent to propose a new or changed rule that is a new addition to that issue of the bulletin. The notice shall be in the form of an official legal notice, as provided for in section [60-105](#), Idaho Code, and subject to the rates set forth therein.

The notice shall include the agency name and address, rule number, rule subject matter as provided in subsection (1) (b) of this section, and the comment deadline. The notice shall also include a brief statement that informs citizens where they can view the administrative bulletin in electronic form.

(b) The coordinator shall cause the notice required in subsection (2) (a) of this section to be published in at least the accepting newspaper of largest paid circulation that is published in each county in Idaho or, if no newspaper is published in the county, then in an accepting newspaper of largest paid circulation published in Idaho and circulated in the county. The newspaper of largest circulation shall be established by the sworn statement of average annual paid weekday issue circulation that has been filed by a newspaper with the United States post office for the calendar year immediately preceding the calendar year during which the advertisement in this section is required to be published.

(3) Each agency that has a website shall cause the notice required by either subsection (1) or (2) of this section to be placed onto or be accessible from the home page of the agency's website so that interested persons can view it online.

[(67-5221) 67-5203 added 1965, ch. 273, sec. 3, p. 701; am. 1978, ch. 255, sec. 1, p. 556; am. 1980, ch. 44, sec. 1, p. 73; am. 1980, ch. 212, sec. 1, p. 481; am. 1981, ch. 192, sec. 2, p. 339; am. 1981, ch. 245, sec. 1, p. 489; am. 1983, ch. 4, 1st E.S., sec. 1, p. 23; am. and redesig. 1992, ch. 263, sec. 10, p. 793; am. 1993, ch. 216, sec. 105, p. 674; am. 1993, ch. 245, sec. 3, p. 856; am. 1994, ch. 271, sec. 2, p. 834; am. 1994, ch. 371, sec. 3, p. 1196; am. 1996, ch. 161, sec. 5, p. 534; am. 2005, ch. 129,

sec. 1, p. 416; am. 2010, ch. 45, sec. 1, p. 82; am. 2012, ch. 310, sec. 2, p. 857; am. 2013, ch. 284, sec. 1, p. 732.]

67-5222. PUBLIC PARTICIPATION. (1) Prior to the adoption of a rule, the agency shall afford all interested persons reasonable opportunity to submit data, views and arguments, orally or in writing. The agency shall receive comments for not less than twenty-one (21) days after the date of publication of the notice of proposed rulemaking in the bulletin.

(2) When promulgating substantive rules, the agency shall provide an opportunity for oral presentation if requested by twenty-five (25) persons, a political subdivision, or an agency. The request must be made in writing and be within fourteen (14) days of the date of publication of the notice of proposed rulemaking in the bulletin, or within fourteen (14) days prior to the end of the comment period, whichever is later. An opportunity for oral presentation need not be provided when the agency has no discretion as to the substantive content of a proposed rule because the proposed rule is intended solely to comply:

(a) With a controlling judicial decision or court order; or

(b) With the provisions of a statute or federal rule that has been amended since the adoption of the agency rule.

(3) Every agency must allow oral presentation through video conference or telephone. Beginning July 1, 2026, all agencies must post a video or audio recording of any oral presentation and public hearing on a rule within fifteen (15) days after the meeting and retain such recording and post the recording on the agency's website, if any, for not less than three (3) years.

[67-5222, added 1992, ch. 263, sec. 12, p. 797; am. 2023, ch. 314, sec. 3, p. 959.]

67-5223. INTERIM LEGISLATIVE REVIEW -- STATEMENT OF ECONOMIC IMPACT. (1) After notice of proposed rulemaking is filed with the coordinator, the coordinator, after making technical corrections as authorized in section [67-5202](#), Idaho Code, shall provide the notice, accompanied by the full text of the rule under consideration in legislative format, as well as a statement of the substance of the intended action, to the director of legislative services. If the proposed rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services. The director of legislative services shall analyze and refer the material under consideration to the germane joint subcommittee created in section [67-454](#), Idaho Code.

(2) An agency shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a proposed rule if the germane joint subcommittee files a written request with the agency for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule, including any health, safety, or welfare costs and benefits.

(3) An agency shall prepare for inclusion with the filing of the proposed rule change a statement of economic impact on all proposed rules in which a fee or charge is imposed or increased. The cost/benefit analysis shall include reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs borne by citizens, or the private sector or both. The adequacy of the contents of the statement of economic impact in subsections (1) and (2) of this section is not subject to judicial review and

the accuracy of a fiscal impact statement provided pursuant to this subsection shall not affect the validity or the enforceability of the rule.

(4) An agency proposing to adopt amendments to materials previously incorporated by reference in a rule shall prepare for inclusion with the filing of the proposed rule change a brief written synopsis that details the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. This synopsis shall accompany the submission to the director of legislative services and shall be provided to the germane joint subcommittee created in section [67-454](#), Idaho Code.

[67-5223, added 1992, ch. 263, sec. 13, p. 797; am. 1994, ch. 271, sec. 3, p. 835; am. 1996, ch. 159, sec. 24, p. 527; am. 1999, ch. 21, sec. 2, p. 30; am. 2008, ch. 183, sec. 2, p. 555; am. 2010, ch. 280, sec. 1, p. 756; am. 2016, ch. 367, sec. 1, p. 1077.]

67-5224. PENDING RULE. (1) Prior to the adoption of a rule, the agency shall consider fully all written and oral submissions respecting the proposed rule.

(2) Subject to the provisions of subsection (3) of this section, the agency shall publish the text of a pending rule and a notice of adoption of the pending rule in the bulletin. The notice of adoption of the pending rule shall consist of a concise explanatory statement containing:

(a) Reasons for adopting the rule;

(b) Any changes between the text of the proposed rule and the text of the pending rule with the reasons for any changes;

(c) The date on which the pending rule will become final and effective, as provided in section [67-5291](#)(5), Idaho Code, and a statement that the pending rule must be approved by concurrent resolution of the legislature;

(d) An identification of any pending fee rule and a statement that this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the legislature;

(e) The specific statutory authority for the rulemaking including a citation to the specific section of the Idaho Code that has occasioned the rulemaking, or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; and

(f) Except as otherwise required in paragraph (g) of this subsection, 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 when the pending rule will become effective; provided however, that notwithstanding section [67-5231](#), Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule; or

(g) If a notice of proposed rulemaking of the Idaho state tax commission, a specific description of any negative or positive fiscal impact greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective; provided however, notwithstanding section [67-5231](#), Idaho Code, the absence or accuracy of a fiscal impact statement provided pursuant to this paragraph shall not affect the validity or the enforceability of the rule.

(3) With the permission of the coordinator, the agency need not publish in full the text of the pending rule if no significant changes have been

made from the text of the proposed rule as published in the bulletin, but the notice of adoption of the pending rule must cite the volume of the bulletin where the text is available and note all changes that have been made.

(4) An agency shall not publish a pending rule until at least seven (7) days after the close of all public comment.

(5) Each agency shall provide the coordinator with a description of any pending fee rule, along with a citation of the specific statute authorizing the imposition or increase of the fee or charge. The coordinator shall provide the legislature with a compilation of the descriptions provided by the agencies.

(6) Upon adjournment sine die of the legislature or as soon thereafter as is practicable, the coordinator shall publish the date of adjournment and the date rules became effective and a list of final rules becoming effective on a different date, as provided in section [67-5291](#), Idaho Code, and temporary rules remaining in effect as provided in section [67-5291](#), Idaho Code.

[67-5224, added 1992, ch. 263, sec. 14, p. 798; am. 1995, ch. 196, sec. 1, p. 686; am. 1996, ch. 161, sec. 6, p. 535; am. 1999, ch. 20, sec. 1, p. 28; am. 2005, ch. 220, sec. 1, p. 696; am. 2013, ch. 284, sec. 2, p. 733; am. 2014, ch. 191, sec. 1, p. 515; am. 2023, ch. 314, sec. 4, p. 960.]

67-5225. RULEMAKING RECORD. (1) Prior to the adoption, amendment, or repeal of a rule, the agency shall prepare a rulemaking record. The record shall be maintained in the main offices of the agency.

(2) The rulemaking record shall be available for public inspection and copying. The rulemaking record must contain:

- (a) copies of all publications in the bulletin;
- (b) all written petitions, submissions, and comments received by the agency and the agency's response to those petitions, submissions, and comments;
- (c) all written materials considered by the agency in connection with the formulation, proposal, or adoption of the rule;
- (d) a record of any oral presentations, any transcriptions of oral presentations, and any memorandum prepared by a presiding officer summarizing the contents of the presentations; and
- (e) any other materials or documents prepared in conjunction with the rulemaking.

(3) Except as otherwise required by a provision of law, the rulemaking record need not constitute the exclusive basis for agency action on that rule or for judicial review thereof.

(4) The record required in this section shall be maintained by the agency for a period of not less than two (2) years after the effective date of the rule.

[67-5225, added 1992, ch. 263, sec. 15, p. 799; am. 1995, ch. 270, sec. 1, p. 869.]

67-5226. TEMPORARY RULES. (1) If the governor finds that:

- (a) Protection of the public health, safety, or welfare; or
- (b) Compliance with deadlines in amendments to governing law or federal programs; or
- (c) Conferring a benefit;

requires a rule to become effective before it has been submitted for review, the agency may proceed with such notice as is practicable and adopt a tem-

porary rule, except as otherwise provided in section [67-5229](#)(1)(d), Idaho Code. The agency may make the temporary rule immediately effective. The agency shall incorporate the required finding and a concise statement of its supporting reasons in each rule adopted in reliance upon the provisions of this subsection.

(2) A pending fee rule adopted pursuant to subsection (1) of this section may become effective under this section before it has been approved by concurrent resolution only if the governor finds that the fee or charge is necessary to avoid immediate danger.

(3) Temporary rules shall be published in the first available issue of the bulletin.

(4) Temporary rules are not subject to the requirements of section [67-5223](#), Idaho Code, provided that the coordinator sends a copy of the temporary rules to the director of the legislative services office.

(5) Concurrently with the promulgation of a rule under this section, or as soon as reasonably possible thereafter, an agency shall commence the promulgation of a proposed rule in accordance with the rulemaking requirements of this chapter, unless the temporary rule adopted by the agency will expire by its own terms or by operation of law before the proposed rule could become final.

[67-5226, added 1992, ch. 263, sec. 16, p. 799; am. 1995, ch. 196, sec. 2, p. 687; am. 1996, ch. 161, sec. 7, p. 536; am. 2000, ch. 203, sec. 2, p. 511; am. 2003, ch. 22, sec. 1, p. 92; am. 2010, ch. 20, sec. 4, p. 36; am. 2014, ch. 191, sec. 2, p. 516; am. 2023, ch. 314, sec. 5, p. 961.]

67-5227. VARIANCE BETWEEN PENDING RULE AND PROPOSED RULE. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject of agency action and were reasonably able from that notification to determine whether their interests could be affected by agency action on that subject.

[67-5227, added 1992, ch. 263, sec. 17, p. 800; am. 1993, ch. 216, sec. 106, p. 675; am. 1996, ch. 161, sec. 8, p. 537.]

67-5228. EXEMPTION FROM REGULAR RULEMAKING PROCEDURES. An agency may amend a pending rule to correct typographical errors, transcription errors, or clerical errors without compliance with regular rulemaking procedures when the amendments are approved by the coordinator. Such amendments become incorporated in the pending rule upon publication in the bulletin.

[67-5228, added 1992, ch. 263, sec. 18, p. 800; am. 1996, ch. 161, sec. 9, p. 537.]

67-5229. INCORPORATION BY REFERENCE. (1) If the incorporation of its text in the agency rules would be unduly cumbersome, expensive, or otherwise inexpedient, an agency may incorporate by reference in its rules and without republication of the incorporated material in full, all or any part of:

- (a) A code, standard or rule adopted by an agency of the United States;
- (b) A code, standard or rule adopted by any nationally recognized organization or association;

(c) A code or standard adopted by Idaho statute or authorized by Idaho statute for adoption by rule; or

(d) A final rule of a state agency; provided however, that a state agency shall not adopt a temporary rule incorporating by reference a rule of that agency that is being or has been repealed unless the rule providing for the incorporation has been reviewed and approved by the legislature.

(2) The agency shall, as part of the rulemaking:

(a) Include in the notice of proposed rulemaking a brief written synopsis of why the incorporation is needed; and

(b) Note where an electronic copy can be obtained or provide an electronic link to the incorporated materials that at a minimum will be posted on the agency's website or included in the rule that is published in the administrative code on the website of the office of the administrative rules coordinator; and

(c) If otherwise unavailable, note where copyrighted or other proprietary materials can be viewed or purchased.

(3) The incorporated material shall be identified with specificity and shall include the date when the code, standard or rule was published, approved or became effective. If the agency subsequently wishes to adopt amendments to previously incorporated material, it shall comply with the rulemaking procedures of this chapter.

(4) Unless prohibited by other provisions of law, the incorporated material is subject to legislative review in accordance with the provisions of section [67-5291](#), Idaho Code, and shall have the same force and effect as a rule.

[(67-5229) 1980, ch. 212, sec. 2, p. 484; am. and redesignated 1992, ch. 263, sec. 19, p. 800; am. 2000, ch. 203, sec. 1, p. 510.; am. 2010, ch. 280, sec. 2, p. 757.]

67-5230. PETITION FOR ADOPTION, AMENDMENT, REPEAL, OR WAIVER OF RULES. (1) Any person may petition an agency requesting the adoption, amendment, or repeal of a rule. The agency shall:

(a) Deny the petition in writing, stating its reasons for the denial; or

(b) Initiate rulemaking proceedings in accordance with this chapter.

(2) Any person may petition an agency for a waiver of or variance from a specified rule or rules if the granting of the waiver would not conflict with or violate Idaho law and is consistent with at least one (1) of the following considerations:

(a) In the petitioner's specific circumstances, the application of a certain rule or rules is unreasonable and would impose undue hardship or burden on the petitioner;

(b) The petitioner proposes an alternative that, in the opinion of the agency, will afford substantially equal protection of health, safety, and welfare intended by the particular rule for which the waiver or variance is requested; or

(c) The waiver or variance requested would test an innovative practice or model that will, in the opinion of the agency, generate meaningful evidence for the agency in consideration of a rule change.

(3) In response to a petition filed pursuant to subsection (2) of this section, the agency shall:

(a) Deny the petition in writing, stating the reasons for the denial; or

(b) Approve the petition and grant a waiver of or variance from the rule, in whole or in part, and specify whether any conditions are placed on the waiver or variance or whether a specific time period for the waiver or variance is established.

(4) An agency shall approve or deny a petition filed pursuant to this section or initiate rulemaking proceedings in accordance with this chapter within twenty-eight (28) days after submission of the petition, unless the agency's rules are adopted by a multimember agency board or commission whose members are not full-time officers or employees of the state, in which case the agency shall take action on the petition no later than the first regularly scheduled meeting of the board or commission that takes place seven (7) or more days after submission of the petition. If an agency requests additional information from the petitioner, the time period specified in this subsection shall begin anew.

(5) Following the granting of a waiver or variance, the agency shall consider a rule change that will allow all similarly situated persons to derive the same benefits granted to the petitioner.

(6) An agency decision denying a petition is a final agency action.

[(67-5230) 1965, ch. 273, sec. 6, p. 701; am. and redesign. 1992, ch. 263, sec. 21, p. 801; am. 1995, ch. 270, sec. 2, p. 869; am. 2020, ch. 277, sec. 1, p. 811.]

67-5231. INVALIDITY OF RULES NOT ADOPTED IN COMPLIANCE WITH THIS CHAPTER -- TIME LIMITATION. (1) Rules may be promulgated by an agency only when specifically authorized by statute. A temporary or final rule adopted and becoming effective after July 1, 1993, is voidable unless adopted in substantial compliance with the requirements of this chapter.

(2) A proceeding, either administrative or judicial, to contest any rule on the ground of noncompliance with the procedural requirements of this chapter must be commenced within two (2) years from the effective date of the rule.

[67-5231, added 1992, ch. 263, sec. 22, p. 801; am. 1996, ch. 161, sec. 10, p. 538.]

67-5232. DECLARATORY RULINGS BY AGENCIES. (1) Any person may petition an agency for a declaratory ruling as to the applicability of any statutory provision or of any rule administered by the agency.

(2) A petition for a declaratory ruling does not preclude an agency from initiating a contested case in the matter.

(3) A declaratory ruling issued by an agency under this section is a final agency action.

[(67-5232) 1965, ch. 273, sec. 8, p. 701; am. and redesignated 1992, ch. 263, sec. 23, p. 801.]

67-5240. CONTESTED CASES. A proceeding by an agency other than the public utilities commission, the industrial commission, the Idaho personnel commission, and the Idaho transportation department's driver's license suspension contested case hearings, which may result in the issuance of an order, is a contested case and is governed by the provisions of this chapter, except as provided by other provisions of law.

[67-5240, added 1992, ch. 263, sec. 24, p. 802; am. 2022, ch. 287, sec. 3, p. 913.]

67-5241. INFORMAL DISPOSITION. (1) Unless prohibited by other provisions of law:

(a) an agency or a presiding officer may decline to initiate a contested case;

(b) any part of the evidence in a contested case may be received in written form if doing so will expedite the case without substantially prejudicing the interests of any party;

(c) informal disposition may be made of any contested case by negotiation, stipulation, agreed settlement, or consent order. Informal settlement of matters is to be encouraged;

(d) the parties may stipulate as to the facts, reserving the right to appeal to a court of competent jurisdiction on issues of law.

(2) An agency or a presiding officer may request such additional information as required to decide whether to initiate or to decide a contested case as provided in subsection (1) of this section.

(3) If an agency or a presiding officer declines to initiate or decide a contested case under the provisions of this section, the agency or the officer shall furnish a brief statement of the reasons for the decision to all persons involved. This subsection does not apply to investigations or inquiries directed to or performed by law enforcement agencies defined in section [74-101](#)(7), Idaho Code.

(4) The agency may not abdicate its responsibility for any informal disposition of a contested case. Disposition of a contested case as provided in this section is a final agency action.

[67-5241, added 1992, ch. 263, sec. 25, p. 802; am. 1993, ch. 216, sec. 107, p. 676; am. 2000, ch. 342, sec. 13, p. 1160; am. 2006, ch. 352, sec. 4, p. 1078; am. 2015, ch. 141, sec. 176, p. 519.]

67-5242. PROCEDURE AT HEARING. (1) In a contested case, all parties shall receive notice that shall include:

(a) a statement of the time, place, and nature of the hearing;

(b) a statement of the legal authority under which the hearing is to be held; and

(c) a short and plain statement of the matters asserted or the issues involved.

(2) The agency head, one (1) or more members of the agency head, or one (1) or more hearing officers may, in the discretion of the agency head, be the presiding officer at the hearing.

(3) At the hearing, the presiding officer:

(a) Shall regulate the course of the proceedings to assure that there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary.

(b) Shall afford all parties the opportunity to respond and present evidence and argument on all issues involved, except as restricted by a limited grant of intervention or by a prehearing order.

(c) May give nonparties an opportunity to present oral or written statements. If the presiding officer proposes to consider a statement by a nonparty, the presiding officer shall give all parties an opportunity to challenge or rebut it and, on motion of any party, the

presiding officer shall require the statement to be given under oath or affirmation.

(d) Shall cause the hearing to be recorded at the agency's expense. Any party, at that party's expense, may have a transcript prepared or may cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption.

(e) May conduct all or part of the hearing by telephone, television, or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(4) If a party fails to attend any stage of a contested case, the presiding officer may serve upon all parties notice of a proposed default order. The notice shall include a statement of the grounds for the proposed order. Within seven (7) days after service of the proposed order, the party against whom it was issued may file a written petition requesting the proposed order to be vacated. The petition shall state the grounds relied upon. The presiding officer shall either issue or vacate the default order promptly after the expiration of the time within which the party may file a petition. If the presiding officer issues a default order, the officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party.

[(67-5242) 1965, ch. 273, sec. 9, p. 701; am. and redesignated 1992, ch. 263, sec. 26, p. 802.]

67-5243. ORDERS NOT ISSUED BY AGENCY HEAD. (1) If the presiding officer is not the agency head, the presiding officer shall issue either:

(a) A recommended order, which becomes a final order only after review by the agency head in accordance with section [67-5244](#), Idaho Code; or

(b) A preliminary order, which becomes a final order unless reviewed in accordance with section [67-5245](#), Idaho Code.

(2) The order shall state whether it is a preliminary order or a recommended order.

(3) Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of a recommended order or a preliminary order within fourteen (14) days of the service date of that order. The presiding officer shall render a written order disposing of the petition. The petition is deemed denied if the presiding officer does not dispose of it within twenty-one (21) days after the filing of the petition.

[67-5243, added 1992, ch. 263, sec. 27, p. 804; am. 2010, ch. 255, sec. 1, p. 646.]

67-5244. REVIEW OF RECOMMENDED ORDERS. (1) A recommended order shall include a statement of the schedule for review of that order by the agency head or his designee. The agency head shall allow all parties to file exceptions to the recommended order, to present briefs on the issues, and may allow all parties to participate in oral argument.

(2) Unless otherwise required, the agency head shall either:

(a) issue a final order in writing within fifty-six (56) days of the receipt of the final briefs or oral argument, whichever is later, unless the period is waived or extended with the written consent of all parties or for good cause shown;

(b) remand the matter for additional hearings; or

(c) hold additional hearings.

(3) The agency head on review of the recommended decision shall exercise all the decision-making power that he would have had if the agency head had presided over the hearing.

[67-5244, added 1992, ch. 263, sec. 28, p. 804.]

67-5245. REVIEW OF PRELIMINARY ORDERS. (1) A preliminary order shall include:

(a) A statement that the order will become a final order without further notice; and

(b) The actions necessary to obtain administrative review of the preliminary order.

(2) The agency head, upon his own motion may, or, upon motion by any party shall, review a preliminary order, except to the extent that:

(a) Another statute precludes or limits agency review of the preliminary order; or

(b) The agency head has delegated his authority to review preliminary orders to one (1) or more persons.

(3) A petition for review of a preliminary order must be filed with the agency head, or with any person designated for this purpose by rule of the agency, within fourteen (14) days after the service date of the preliminary order unless a different time is required by other provision of law. If the agency head on his own motion decides to review a preliminary order, the agency head shall give written notice within fourteen (14) days after the issuance of the preliminary order unless a different time is required by other provisions of law. The fourteen (14) day period for filing of notice is tolled by the filing of a petition for reconsideration under section [67-5243](#) (3), Idaho Code.

(4) The basis for review must be stated on the petition. If the agency head on his own motion gives notice of his intent to review a preliminary order, the agency head shall identify the issues he intends to review.

(5) The agency head shall allow all parties to file exceptions to the preliminary order, to present briefs on the issues, and may allow all parties to participate in oral argument.

(6) The agency head shall:

(a) Issue a final order in writing, within fifty-six (56) days of the receipt of the final briefs or oral argument, whichever is later, unless the period is waived or extended with the written consent of all parties, or for good cause shown;

(b) Remand the matter for additional hearings; or

(c) Hold additional hearings.

(7) The head of the agency or his designee for the review of preliminary orders shall exercise all of the decision-making power that he would have had if the agency head had presided over the hearing.

[67-5245, added 1992, ch. 263, sec. 30, p. 805; am. 2010, ch. 255, sec. 2, p. 647.]

67-5246. FINAL ORDERS -- EFFECTIVENESS OF FINAL ORDERS. (1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section [67-5245](#), Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a motion for reconsideration of any final order issued by the agency head within fourteen (14) days of the service date of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) The petition for reconsideration is disposed of; or

(b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A nonparty shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section [67-5247](#), Idaho Code.

[67-5246, added 1992, ch. 263, sec. 31, p. 806; am. 2010, ch. 255, sec. 3, p. 647.]

67-5247. EMERGENCY PROCEEDINGS. (1) An agency may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action. The agency shall take only such actions as are necessary to prevent or avoid the immediate danger that justifies the use of emergency contested cases.

(2) The agency shall issue an order, including a brief, reasoned statement to justify both the decision that an immediate danger exists and the decision to take the specific action. When appropriate, the order shall include findings of fact and conclusions of law.

(3) The agency shall give such notice as is reasonable to persons who are required to comply with the order. The order is effective when issued.

(4) After issuing an order pursuant to this section, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

(5) Unless otherwise required by a provision of law, the agency record need not constitute the exclusive basis for agency action in emergency contested cases or for judicial review thereof.

[67-5247, added 1992, ch. 263, sec. 32, p. 806.]

67-5248. CONTENTS OF ORDERS. (1) An order must be in writing and shall include:

(a) A reasoned statement in support of the decision. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record supporting the findings.

(b) A statement of the available procedures and applicable time limits for seeking reconsideration or other administrative relief.

(2) Findings of fact must be based exclusively on the evidence in the record of the contested case and on matters officially noticed in that proceeding.

(3) All parties to the contested case shall be served with a copy of the order. The order shall be accompanied by proof of service stating the service date, each party who was served and the method(s) of service.

[(67-5248) 1965, ch. 273, sec. 12, p. 701; am. and redesignated 1992, ch. 263, sec. 33, p. 307; am. 2010, ch. 255, sec. 4, p. 648.]

67-5249. AGENCY RECORD. (1) An agency shall maintain an official record of each contested case under this chapter for a period of not less than six (6) months after the expiration of the last date for judicial review, unless otherwise provided by law.

(2) The record shall include:

(a) all notices of proceedings, pleadings, motions, briefs, petitions, and intermediate rulings;

(b) evidence received or considered;

(c) a statement of matters officially noticed;

(d) offers of proof and objections and rulings thereon;

(e) the record prepared by the presiding officer under the provisions of section [67-5242](#), Idaho Code, together with any transcript of all or part of that record;

(f) staff memoranda or data submitted to the presiding officer or the agency head in connection with the consideration of the proceeding; and

(g) any recommended order, preliminary order, final order, or order on reconsideration.

(3) Except to the extent that this chapter or another statute provides otherwise, the agency record constitutes the exclusive basis for agency action in contested cases under this chapter or for judicial review thereof.

[67-5249, added 1992, ch. 263, sec. 34, p. 807.]

67-5250. INDEXING OF PRECEDENTIAL AGENCY ORDERS -- INDEXING OF AGENCY GUIDANCE DOCUMENTS. (1) Unless otherwise prohibited by any provision of law, each agency shall index all written final orders that the agency intends to rely upon as precedent. The index and the orders shall be available for public inspection and copying at cost in the main office and each regional or district office of the agency. The orders shall be indexed by name and subject.

A written final order may not be relied on as precedent by an agency to the detriment of any person until it has been made available for public inspection and indexed in the manner described in this subsection.

(2) Unless otherwise prohibited by any provision of law, each agency shall index by subject all agency guidance documents. The index and the guidance documents shall be available for public inspection and copying at cost in the main office and each regional or district office of the agency. As used in this section, "agency guidance" means all written documents,

other than rules, orders, and pre-decisional material, that are intended to guide agency actions affecting the rights or interests of persons outside the agency. "Agency guidance" shall include memoranda, manuals, policy statements, interpretations of law or rules, and other material that are of general applicability, whether prepared by the agency alone or jointly with other persons. The indexing of a guidance document does not give that document the force and effect of law or other precedential authority.

[(67-5250) 1965, ch. 273, sec. 2, p. 701; am. 1980, ch. 204, sec. 1, p. 468; am. and redesignated 1992, ch. 263, sec. 35, p. 808; am. 1993, ch. 216, sec. 108, p. 676; am. 1995, ch. 270, sec. 3, p. 870.]

67-5251. EVIDENCE -- OFFICIAL NOTICE. (1) The presiding officer may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of this state. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs.

(2) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantially prejudicing the interests of any party.

(3) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original if available.

(4) Official notice may be taken of:

(a) any facts that could be judicially noticed in the courts of this state; and

(b) generally recognized technical or scientific facts within the agency's specialized knowledge.

Parties shall be notified of the specific facts or material noticed and the source thereof, including any staff memoranda and data. Notice should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material noticed. Parties must be afforded a timely and meaningful opportunity to contest and rebut the facts or material so noticed. When the presiding officer proposes to notice staff memoranda or reports, a responsible staff member shall be made available for cross-examination if any party so requests.

(5) The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

[(67-5251) 1965, ch. 273, sec. 10, p. 701; am. and redesignated 1992, ch. 263, sec. 36, p. 808.]

67-5252. PRESIDING OFFICER -- DISQUALIFICATION. (1) Except as provided in subsection (4) of this section, any party shall have the right to one (1) disqualification without cause of any person serving or designated to serve as presiding officer, and any party shall have a right to move to disqualify for bias, prejudice, interest, substantial prior involvement in the matter other than as a presiding officer, status as an employee of the agency hearing the contested case, lack of professional knowledge in the subject matter of the contested case, or any other cause provided in this chapter or any cause for which a judge is or may be disqualified.

(2) Any party may petition for the disqualification of a person serving or designated to serve as presiding officer:

- (a) Within fourteen (14) days after receipt of notice indicating that the person will preside at the contested case; or
- (b) Promptly upon discovering facts establishing grounds for disqualification, whichever is later.

Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting designation of a presiding officer.

(3) A person whose disqualification for cause is requested shall determine in writing whether to grant the petition, stating facts and reasons for the determination.

(4) When disqualification of the agency head or a member of the agency head would result in an inability to decide a contested case, the actions of the agency head shall be treated as a conflict of interest under the provisions of section [74-404](#), Idaho Code.

(5) When a decision is required to be rendered within fourteen (14) weeks of the date of a request for a hearing by state or federal statutes or rules and regulations, or when the presiding officer is the chief administrative hearing officer or appointed by the chief administrative hearing officer as defined in section [67-5201](#), Idaho Code, no party shall have the right to a disqualification without cause.

[67-5252, added 1992, ch. 263, sec. 37, p. 809; am. 1993, ch. 216, sec. 109, p. 677; am. 2015, ch. 141, sec. 177, p. 519; am. 2022, ch. 287, sec. 4, p. 914.]

67-5253. EX PARTE COMMUNICATIONS. Unless required for the disposition of ex parte matters specifically authorized by statute, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the proceeding, with any party, except upon notice and opportunity for all parties to participate in the communication.

[(67-5253) 1965, ch. 273, sec. 13, p. 701; am. and redesignated 1992, ch. 263, sec. 38, p. 810.]

67-5254. AGENCY ACTION AGAINST LICENSEES. (1) An agency shall not revoke, suspend, modify, annul, withdraw or amend a license, or refuse to renew a license of a continuing nature when the licensee has made timely and sufficient application for renewal, unless the agency first gives notice and an opportunity for an appropriate contested case in accordance with the provisions of this chapter or other statute.

(2) When a licensee has made timely and sufficient application for the renewal of a license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by a reviewing court.

(3) This section does not preclude an agency from:

- (a) taking immediate action to protect the public interest in accordance with section [67-5247](#), Idaho Code; or

(b) adopting rules, otherwise within the scope of its authority, pertaining to a class of licensees, including rules affecting the existing licenses of a class of licensees.

[(67-5254) 1965, ch. 273, sec. 14, p. 701; am. and redesignated 1992, ch. 263, sec. 39, p. 810.]

67-5255. DECLARATORY RULINGS BY AGENCIES. (1) Any person may petition an agency for a declaratory ruling as to the applicability of any order issued by the agency.

(2) A petition for a declaratory ruling does not preclude an agency from initiating a contested case in the matter.

(3) A declaratory ruling issued by an agency under this section is a final agency action.

[67-5255, added 1992, ch. 263, sec. 40, p. 811.]

67-5270. RIGHT OF REVIEW. (1) Judicial review of agency action shall be governed by the provisions of this chapter unless other provision of law is applicable to the particular matter.

(2) A person aggrieved by final agency action other than an order in a contested case is entitled to judicial review under this chapter if the person complies with the requirements of sections [67-5271](#) through [67-5279](#), Idaho Code.

(3) A party aggrieved by a final order in a contested case decided by an agency other than the industrial commission or the public utilities commission is entitled to judicial review under this chapter if the person complies with the requirements of sections [67-5271](#) through [67-5279](#), Idaho Code.

[67-5270, added 1992, ch. 263, sec. 42, p. 811.]

67-5271. EXHAUSTION OF ADMINISTRATIVE REMEDIES. (1) A person is not entitled to judicial review of an agency action until that person has exhausted all administrative remedies required in this chapter.

(2) A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency action would not provide an adequate remedy.

[67-5271, added 1992, ch. 263, sec. 43, p. 812.]

67-5272. VENUE -- FORM OF ACTION. (1) Except when required by other provision of law, proceedings for review or declaratory judgment are instituted by filing a petition in the district court of the county in which:

- (a) the hearing was held; or
- (b) the final agency action was taken; or
- (c) the aggrieved party resides or operates its principal place of business in Idaho; or
- (d) the real property or personal property that was the subject of the agency decision is located.

(2) When two (2) or more petitions for judicial review of the same agency action are filed in different counties or are assigned to different district judges in the same county, upon motion filed by any party to any of the proceedings for judicial review of the same agency action, the separate consideration of the petitions in different counties or by different

district judges shall be stayed. The administrative judge in the judicial district in which the first petition was filed, after appropriate consultation with the affected district judges and the affected administrative judges, shall then order consolidation of the judicial review of the petitions before one (1) district judge in one (1) county in which a petition for judicial review was properly filed, at which time the stay shall be lifted.

[67-5272, added 1992, ch. 263, sec. 44, p. 812; am. 1995, ch. 270, sec. 4, p. 870.]

67-5273. TIME FOR FILING PETITION FOR REVIEW. (1) A petition for judicial review of a temporary or final rule may be filed at any time, except as limited by section [67-5231](#), Idaho Code.

(2) A petition for judicial review of a final order or a preliminary order that has become final when it was not reviewed by the agency head or preliminary, procedural or intermediate agency action under section [67-5271](#)(2), Idaho Code, must be filed within twenty-eight (28) days of the service date of the final order, the date when the preliminary order became final, or the service date of a preliminary, procedural or intermediate agency order, or, if reconsideration is sought, within twenty-eight (28) days after the service date of the decision thereon. A cross-petition for judicial review may be filed within fourteen (14) days after a party is served with a copy of the notice of the petition for judicial review.

(3) A petition for judicial review of a final agency action other than a rule or order must be filed within twenty-eight (28) days of the agency action, except as provided by other provision of law. The time for filing a petition for review shall be extended during the pendency of the petitioner's timely attempts to exhaust administrative remedies, if the attempts are clearly not frivolous or repetitious. A cross-petition for judicial review may be filed within fourteen (14) days after a party is served with a copy of the notice of the petition for judicial review.

[67-5273, added 1992, ch. 263, sec. 45, p. 812; am. 1993, ch. 216, sec. 110, p. 677; am. 1995, ch. 270, sec. 5, p. 871; am. 1996, ch. 161, sec. 11, p. 538; am. 2010, ch. 255, sec. 5, p. 648.]

67-5274. STAY. The filing of the petition for review does not itself stay the effectiveness or enforcement of the agency action. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

[67-5274, added 1992, ch. 263, sec. 46, p. 812.]

67-5275. AGENCY RECORD FOR JUDICIAL REVIEW. (1) Within forty-two (42) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the agency record. The agency record shall consist of:

- (a) the record compiled under section [67-5225](#), Idaho Code, when the agency action was a rule;
- (b) the record compiled under section [67-5249](#), Idaho Code, when the agency action was an order; or
- (c) any agency documents expressing the agency action when the agency action was neither an order nor a rule.

(2) By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs.

(3) The court may require corrections to the record.

[67-5275, added 1992, ch. 263, sec. 47, p. 813.]

67-5276. ADDITIONAL EVIDENCE. (1) If, before the date set for hearing, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material, relates to the validity of the agency action, and that:

(a) there were good reasons for failure to present it in the proceeding before the agency, the court may remand the matter to the agency with directions that the agency receive additional evidence and conduct additional factfinding.

(b) there were alleged irregularities in procedure before the agency, the court may take proof on the matter.

(2) The agency may modify its action by reason of the additional evidence and shall file any modifications, new findings, or decisions with the reviewing court.

[67-5276, added 1992, ch. 263, sec. 48, p. 813.]

67-5277. JUDICIAL REVIEW OF ISSUES OF FACT. Judicial review shall be conducted by the court without a jury. Unless otherwise provided by statute, judicial review of disputed issues of fact must be confined to the agency record for judicial review as defined in this chapter, supplemented by additional evidence taken pursuant to section [67-5276](#), Idaho Code.

[67-5277, added 1992, ch. 263, sec. 49, p. 813.]

67-5278. DECLARATORY JUDGMENT ON VALIDITY OR APPLICABILITY OF RULES. (1) The validity or applicability of a rule may be determined in an action for declaratory judgment in the district court, if it is alleged that the rule, or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the petitioner.

(2) The agency shall be made a party to the action.

(3) A declaratory judgment may be rendered whether or not the petitioner has requested the agency to pass upon the validity or applicability of the rule in question.

[67-5278, added 1965, ch. 273, sec. 7, p. 701; am. and redesignated 1992, ch. 263, sec. 50, p. 814.]

67-5279. SCOPE OF REVIEW -- TYPE OF RELIEF. (1) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact.

(2) When the agency was not required by the provisions of this chapter or by other provisions of law to base its action exclusively on a record, the court shall affirm the agency action unless the court finds that the action was:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

- (c) made upon unlawful procedure; or
- (d) arbitrary, capricious, or an abuse of discretion.

If the agency action is not affirmed, it shall be set aside, in whole or in part, and remanded for further proceedings as necessary.

(3) When the agency was required by the provisions of this chapter or by other provisions of law to issue an order, the court shall affirm the agency action unless the court finds that the agency's findings, inferences, conclusions, or decisions are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) not supported by substantial evidence on the record as a whole; or
- (e) arbitrary, capricious, or an abuse of discretion.

If the agency action is not affirmed, it shall be set aside, in whole or in part, and remanded for further proceedings as necessary.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, agency action shall be affirmed unless substantial rights of the appellant have been prejudiced.

[67-5279, added 1992, ch. 263, sec. 51, p. 814.]

67-5280. CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS -- POWERS AND DUTIES. (1) There is hereby created in the department of self-governing agencies the office of administrative hearings.

(2) For agencies not excluded in this section, the office of administrative hearings shall:

- (a) Unless otherwise specified by law, conduct all contested case proceedings that arise from an appeal of an agency order;
- (b) Conduct such adjudicatory hearings, mediations, and arbitrations not required by this chapter that are requested by agencies and agreed to by the office of administrative hearings at such monetary rates as established by the office of administrative hearings; and
- (c) Promulgate rules consistent with state and federal law to implement provisions relating to its duties and actions authorized by this chapter.

(3) The office of administrative hearings shall not hear and shall not have authority over or oversight of any action by the department of water resources or the water resource board.

(4) The office of administrative hearings shall be subject to audit in the same manner as other agencies of the state.

[67-5280, added 2022, ch. 287, sec. 5, p. 914.]

67-5281. CHIEF ADMINISTRATIVE HEARING OFFICER -- APPOINTMENT -- QUALIFICATIONS -- REMOVAL -- SALARY. (1) A chief administrative hearing officer shall be appointed by the governor and confirmed by the senate to serve a four (4) year term. A person may be reappointed to serve additional terms. Provided, however, there is no right to reappointment.

(2) The chief administrative hearing officer must meet the following qualifications on the effective date of his appointment:

- (a) Be at least thirty (30) years of age;
- (b) Be a citizen of the United States;

(c) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions of the United States for at least five (5) continuous years immediately preceding such appointment; and

(d) Be or become an active member of the Idaho state bar within one (1) year of appointment and remain an active member in good standing thereafter.

(3) If the chief administrative hearing officer resigns, dies, or is removed from office as provided in this section, the governor shall appoint a person who meets the qualifications established in this section, subject to confirmation by the senate, to fill the unexpired term.

(4) The chief administrative hearing officer may be removed from office by the governor for failing to retain those qualifications of his office established in subsection (2) of this section, for engaging in prohibited conduct established in section [67-5282](#) (2), Idaho Code, or for good cause shown. Before such removal, the governor shall give the chief administrative hearing officer a written copy of the charges against him, provide him an opportunity to submit a response no fewer than fourteen (14) calendars days thereafter, and may provide him such other process as the governor deems appropriate. If the chief administrative hearing officer is removed, the governor shall provide the house of representatives and the senate written notice of the removal, the effective date of removal, and the reason or reasons therefor.

(5) The chief administrative hearing officer shall be compensated as determined by the governor.

[67-5281, added 2022, ch. 287, sec. 6, p. 915; am. 2023, ch. 182, sec. 3, p. 498.]

67-5282. DUTIES AND PROHIBITED CONDUCT OF THE CHIEF ADMINISTRATIVE HEARING OFFICER. (1) The chief administrative hearing officer shall:

(a) Serve as the administrator of the office of administrative hearings;

(b) Conduct such contested case proceedings and such other proceedings as are conducted by the office of administrative hearings in accordance with section [67-5280](#) (2) (a) and (b), Idaho Code;

(c) Devote full-time to the office of administrative hearings and his obligations as chief administrative hearing officer;

(d) Subject to applicable law and regulation, appoint, supervise, and remove hearing officers and staff as he deems appropriate to the proper functioning of the office of administrative hearings, determine the duties of such appointees as he deems appropriate, and, from among the hearing officers employed by the office of administrative hearings, designate a deputy chief administrative hearing officer to act in place of the chief administrative hearing officer when the chief administrative hearing officer is unable to perform his duties;

(e) Have the authority to promulgate rules, pursuant to the provisions of this chapter, to implement sections [67-5280](#) through [67-5286](#), Idaho Code;

(f) Establish a hearing officer code of conduct that shall, among other things, provide for independent and unbiased decision-making by hearing officers both as perceived and in fact and provide for a system to monitor compliance with, and sanction violations of, the hearing officer code of conduct;

(g) Protect and ensure the decisional independence of hearing officers;

(h) Implement a system for monitoring the quality of contested case proceedings and such other proceedings as are conducted by the office of administrative hearings in accordance with section [67-5280](#) (2) (a) and (b), Idaho Code;

(i) At his discretion, unless otherwise prohibited by state or federal law, retain independent contractor hearing officers at reasonable and consistent rates of compensation; provided that an independent contractor hearing officer with specialized expertise may be compensated at a higher rate if such expertise is necessary to the proper adjudication of the case and such higher rate of compensation is necessary in order to obtain such expertise; and

(j) Contract with agencies to conduct such adjudicatory hearings, mediations, and arbitrations authorized by section [67-5280](#) (2) (b), Idaho Code.

(2) The chief administrative hearing officer shall not:

(a) Engage in the practice of law outside of his role in the office of administrative hearings, except for the practice of law that is permitted for a judge by the Idaho code of judicial conduct and is not inconsistent with the code of conduct or his duties as chief administrative hearing officer;

(b) Hold, or be a candidate for, any federal, state, county, municipal, district, or other elective office;

(c) Serve as the agent, representative, officer, political treasurer, or employee, whether for profit or otherwise, of any political party, political committee, or candidate as defined in either [chapter 1, title 34](#) or [chapter 66, title 67](#), Idaho Code, or otherwise; and

(d) Hold any other public or private-sector position, whether for profit or otherwise, except for volunteer positions that are not inconsistent with his duties as chief administrative hearing officer.

[67-5282, added 2022, ch. 287, sec. 7, p. 915; am. 2023, ch. 182, sec. 4, p. 498.]

67-5283. HEARING OFFICER QUALIFICATIONS -- POWERS -- DUTIES. (1) The chief administrative hearing officer and hearing officers appointed by the chief administrative hearing officer shall:

(a) On the effective date of their appointments and throughout their tenure, meet and retain all of the qualifications specified for the chief administrative hearing officer in section [67-5281](#) (2), Idaho Code;

(b) Take the oath of office as prescribed in [chapter 4, title 59](#), Idaho Code;

(c) Comply with the hearing officer code of conduct;

(d) Not engage in the conduct prohibited of the chief administrative hearing officer in section [67-5282](#) (2), Idaho Code. Provided, however, to the extent that it does not create a conflict of interest, the code of conduct may be waived for some or all of these prohibitions for contractor hearing officers; and

(e) Be deemed the presiding officers of contested case proceedings and other proceedings conducted by the office of administrative hearings and assigned to them and have the power to issue subpoenas, administer oaths, control the course of the proceedings, order the use of alter-

native dispute resolution with the parties' consent, enter such awards for costs and attorney's fees as authorized by law, and perform other necessary and appropriate acts in the performance of their duties with respect to such cases.

(2) (a) Independent contractors may be hired as hearing officers without the limitation on outside work or outside practice of law, provided that:

(i) A disclosure is filed with the chief administrative hearing officer that states in what other outside work the independent contractor is engaged;

(ii) The independent contractor does not engage in outside work presenting a conflict of interest; and

(iii) The independent contractor discloses such other information as required by the code of conduct.

(b) If a failure to comply with the requirements of this subsection by an independent contractor is brought to the attention of the chief administrative hearing officer within thirty (30) days of the issuance of the independent contractor hearing officer's order, the chief administrative hearing officer shall declare such order void and of no effect within fourteen (14) days. The chief administrative hearing officer shall be permitted to issue a stay while he investigates the issue of failure to comply if the order involves a financial transaction.

(3) Those individuals serving as hearing officers in the office of the attorney general for department of health and welfare contested case hearings on December 31, 2023, shall have the option to be appointed hearing officers when the office of administrative hearings begins conducting such hearings on or after January 1, 2024, as provided by section [67-5286](#), Idaho Code, if they meet the hearing officer qualifications requirements set forth in this section and if such hearing officer positions are available in the office of administrative hearings on an employment or independent contractor basis.

[67-5283, added 2022, ch. 287, sec. 8, p. 916; am. 2023, ch. 182, sec. 5, p. 499.]

67-5284. COOPERATION OF AGENCIES. No agency or state officer, other than the chief administrative hearing officer, shall attempt to influence the selection of a hearing officer for a contested case proceeding or any other matter, except mediations, and the chief administrative hearing officer shall not permit any such influence; provided that agencies and state officers may inform the office of administrative hearings in writing of their views regarding:

(1) Expertise needed or desired with respect to types of potential contested cases;

(2) Proposed rules under consideration for adoption by the office of administrative hearings;

(3) Legislation or rules under consideration or being proposed by the office of administrative hearings;

(4) Legislation or rules under consideration or being proposed by such agencies or state officers; and

(5) Alleged violations of the code of conduct.

[67-5284, added 2022, ch. 287, sec. 9, p. 917.]

67-5285. OFFICE OF ADMINISTRATIVE HEARINGS -- COST ESTIMATES -- ASSESSMENT OF RECIPIENT AGENCIES. (1) The office of administrative hearings shall prepare an estimate of costs for state budgeting purposes for services provided by the office of administrative hearings. The office of administrative hearings shall notify the division of financial management of such estimated costs by August 29 of each fiscal year. The division of financial management shall notify all state agencies of these cost estimates for the next fiscal year on or before October 1 of each fiscal year. The division of financial management and the legislative services office shall allow state agencies to modify their budget requests in response to such estimates.

(2) The office of administrative hearings shall assess each recipient agency the amounts allocated for services provided. Amounts so assessed shall be separately accounted for and can be expended only after legislative appropriation. Such amount shall be paid by each state entity in the succeeding fiscal year to the indirect cost recovery fund. Before June 30 of each fiscal year, the state controller shall transfer an amount equal to such deposits to the state general fund.

[67-5285, added 2022, ch. 287, sec. 10, p. 918.]

67-5286. CONDUCT OF CONTESTED CASE PROCEEDINGS. (1) Notwithstanding any other provision of this chapter, the office of administrative hearings shall not conduct contested case proceedings until January 1, 2023. Contested case proceedings commenced prior to that date shall proceed under the law as it existed as of June 30, 2022, unless the hearing for such contested case did not commence prior to January 1, 2023. Provided, however, the office of administrative hearings shall not conduct department of health and welfare contested case hearings until January 1, 2024, and such hearings commenced prior to that date shall be completed by the department of health and welfare.

(2) The department of health and welfare shall expeditiously submit to the centers for medicare and medicaid services (CMS) all that may be required for CMS to approve the conduct of department of health and welfare contested case hearings by the office of administrative hearings commencing on January 1, 2024, as provided for in subsections (1) and (3) of this section, including but not limited to state plan amendments, waivers, and memorandums of agreement. The governor, by and through the director of the department of health and welfare, shall retain the authority to exercise appropriate oversight of hearings necessary to comply with requirements described in 42 U.S.C. 1396a and related regulations.

(3) The governor may, after notice to the chief administrative hearing officer, extend the date on which the office of administrative hearings is to commence conducting department of health and welfare contested case hearings as provided for in subsection (1) of this section until CMS has approved the conduct of hearings by the office of administrative hearings.

[67-5286, added 2022, ch. 287, sec. 11, p. 918.]

67-5291. LEGISLATIVE REVIEW OF RULES. (1) A standing committee of the legislature shall review any temporary, pending, or final rule that is germane to its committee and has been published in the bulletin or in the administrative code to determine if the rule is consistent with the legislative intent of the statute that the rule was written to interpret, prescribe, implement, or enforce. If a reviewed rule is approved, the standing committee

that approves the rule shall report its findings and recommendations to the body. If ordered by the presiding officer, the committee's report shall be printed in the journal.

(2) (a) All temporary, pending, and final rules of any nature may be approved or rejected by a concurrent resolution of the legislature. The concurrent resolution shall state the effective date of the approval or rejection.

(b) The legislature may reject a rule, in whole or in part, where the legislature determines that the rule, or part of the rule, is not consistent with the legislative intent of the statute that the rule was written to interpret, prescribe, implement, or enforce. When rejecting a rule, the legislature shall make a finding of facts as to why the rule does not meet the legislative intent of the enabling statute by identifying how the rule is inconsistent with the authority granted by or the requirements of the corresponding section of Idaho Code. For purposes of this section, "part of the rule" means a provision in a rule that is designated either numerically or alphabetically or the entirety of any new or amended language contained therein. The rejection of a rule in whole or in part shall terminate the rule, in whole or in part, as of the effective date of the rejection. An agency shall not, subsequent to the rejection, issue a proposed rule that is substantially similar to the rejected rule unless it is consistent with the legislative intent of the statute as expressed in the concurrent resolution.

(c) The secretary of state shall immediately notify the affected agency of the filing and effective date of any concurrent resolution enacted to approve or reject, in whole or in part, an agency rule. When an agency rule has been partially rejected, the secretary of state shall transmit a copy of the concurrent resolution to the director of the agency for promulgation of the rule as amended.

(d) The agency shall be responsible for implementing legislative intent as expressed in the concurrent resolution, including, as appropriate, the reinstatement of the prior rule in whole or in part, if any, in the case of a resolution rejecting a rule in whole or in part. The agency shall publish notice of rejection of a rule in whole or in part in the bulletin.

(3) A temporary rule that is not approved by a concurrent resolution shall expire by its own terms or at adjournment sine die of the next succeeding regular session of the legislature, whichever date is earlier.

(4) Except as set forth in sections [67-5226](#) and [67-5228](#), Idaho Code, a pending fee rule that is not approved by a concurrent resolution shall expire upon adjournment sine die of the legislative session during which the agency submits the pending fee rule to the legislature for review.

(5) Except as set forth in sections [67-5226](#) and [67-5228](#), Idaho Code, a pending non-fee rule that is not approved by a concurrent resolution shall expire upon adjournment sine die of the legislative session during which the agency submits the pending rule to the legislature for review.

[67-5291, added 2023, ch. 314, sec. 7, p. 962.]

67-5292. PERIODIC REVIEW OF ADMINISTRATIVE RULES. Each rule chapter that is in effect on July 1, 2026, shall be reviewed by the legislature on a staggered, periodic schedule between July 1, 2026, and June 30, 2034, and on a similar schedule each eight (8) years thereafter.

[(67-5292) 67-5219, added 1990, ch. 22, sec. 2, p. 34; am. and re-
desig. 1992, ch. 263, sec. 54, p. 815; am. 1996, ch. 161, sec. 13, p. 539;
am. 2014, ch. 191, sec. 4, p. 517; am. 2023, ch. 314, sec. 8, p. 963.]