Compiler's notes. Section 8 of S.L. 1992, ch. 263 is compiled as § 67-5207.

Sec. to sec. ref. Sections 67-5220 through 67-5232 are referred to in § 67-5206.

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 a specific 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;

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

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

(e) 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;

(f) the manner in which persons may request an opportunity for an oral presentation as provided in section 67-5222, Idaho Code; and

(g) the deadline for public comments on the proposed rule.

(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 form of the notice shall be substantially as follows: typefaces used shall measure greater than seven (7) points, and space width shall not be less than two (2) newspaper columns. The content of the notice shall be substantially as follows:

A prominent bold typeface heading designed to alert readers to the rules and information contained in the notice. The notice shall include the agency name and address, rule number, rule subject matter as provided in paragraph (1)(b) of this section, and the comment deadline. A brief statement in a prominent bold typeface that informs citizens where they can view the administrative bulletin in hard copy or electronic form shall be included.

(b) The coordinator shall cause the notice required in paragraph (a) of this subsection 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. The coordinator is authorized to negotiate a rate or rates with any or all newspapers publishing these notices which will provide adequate exposure to the

notices by the least expensive means. For the purposes of this section, the provisions of section 60-105, Idaho Code, shall not apply. [1965, ch. 273, § 3, p. 701; am. 1978, ch. 255, § 1, p. 556; am. 1980, ch. 44, § 1, p. 72; am. 1980, ch. 212, § 1, p. 481; am. 1981, ch. 192, § 2, p. 338; am. 1981, ch. 245, § 1, p. 489; am. 1983 (Ex. Sess.), ch. 4, § 1, p. 23; am. and redesig. 1992, ch. 263, § 10, p. 783; am. 1993, ch. 216, § 105, p. 587; am. 1993, ch. 245, § 3, p. 853; am. 1994, ch. 271, § 2, p. 834; am. 1994, ch. 371, § 3, p. 1194.]

Compiler's notes. This section was amended by two 1994 acts — ch. 271, § 2, and ch. 371, § 3, both effective July 1, 1994 — which do appear to conflict.

The amendment by ch. 271, § 2, added "including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking" at the end of paragraph (1)(a); and in the PUBLIC NOTICE in paragraph (2)(a), substituted "and" for "[an]d" following "complete text", which word was deleted by ch. 371.

The amendment by ch. 371, § 3, in paragraph (2)(a), deleted "but less than twelve (12) points," following "greater than seven (7) points," and substituted "A prominent bold typeface heading designed to alert readers to the rules and information contained in the notice. The notice shall include the agency name and address, rule number, rule subject matter as provided in paragraph (1)(b) of this section, and the comment deadline. A brief statement in a prominent bold typeface that informs citizens where they can view the administrative bulletin in hard copy or electronic form shall be included." for a form titled "PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES"; and added the last sentence of paragraph (2)(b).

This section was formerly compiled as § 67-5203 and was amended and redesignated as § 67-5221 by § 10 of S.L. 1992, ch. 263, effective July 1, 1993.

Section 1 of S.L. 1981, ch. 192 is compiled as § 67-5201.

Section 11 of S.L. 1992, ch. 263 contained a repeal.

Sections 104 and 106 of S.L. 1993, ch. 216 are compiled as §§ 67-5206 and 67-5227, respectively.

Section 2 of S.L. 1993, ch. 245 is compiled as § 67-5205.

Section 2 of S.L. 1980, ch. 44 declared an emergency. Approved March 5, 1980.

Section 2 of S.L. 1983 (Ex. Sess.), ch. 4 declared an emergency. Approved May 19, 1983.

Section 4 of S.L. 1993, ch. 245 declared an emergency. Approved March 27, 1993.

Section 3 of S.L. 1994, ch. 271 is compiled as § 67-5223.

Section 2 of S.L. 1994, ch. 371 is compiled as § 67-5205.

Sec. to sec. ref. Sections 67-5221 through 67-5224 are referred to in § 67-5226.

Cited in: Intermountain Gas Co. v. Idaho Pub. Utils. Comm'n, 98 Idaho 718, 571 P.2d 1119 (1977).

ANALYSIS

Emergency rule-making.
Handbook adopted defectively.
Statements concerning internal management.

Emergency Rule-Making.

The Idaho Department of Health and Welfare clearly complied with the emergency rule-making provisions in adopting rules and regulations for pre-admission screening of nursing home patients for mental illness. Idaho Health Care Ass'n v. Sullivan, 716 F. Supp. 464 (D. Idaho 1989).

Handbook Adopted Defectively.

Where an administrative agency's policy and procedures manual was not adopted pursuant to the procedural requirements of this section, the agency's handbook had to be construed as merely an internal guideline capable of being changed by an agency head when necessary, not having the force and effect of law, and since the manual did not have the force and effect of law, no cause of action could be based on its alleged violation. Service Employees Int'l Local 6 v. Idaho Dep't of Health & Welfare, 106 Idaho 756, 683 P.2d 404 (1984).

Statements Concerning Internal Management.

Subdivision (7) of § 67-5201 does not provide for two types of rules, those that must be promulgated according to this section, and those that need not. Rather, subdivision (7) of § 67-5201 is a definitional term which provides that "statements concerning only the internal management of any agency and not affecting private rights or procedures available to the public . . ." are not rules; not being rules, they do not have the force and effect of law, and a violation of them does not create a private cause of action. Service Employees Int'l Local 6 v. Idaho Dep't of Health & Welfare, 106 Idaho 756, 683 P.2d 404 (1984).

67-5222. Public participation. — (1) Prior to the adoption, amendment, or repeal 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. [I.C., § 67-5222, as added by 1992, ch. 263, § 12, p. 783.]

Compiler's notes. Section 11 of S.L. 1992, ch. 263 contained a repeal and § 10 is compiled as § 67-5221.

67-5223. Interim legislative review — Legislative hearings — Statement of economic impact. — (1) At the same time that notice of proposed rulemaking is filed with the coordinator, the agency shall provide the same 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 the legislative council. 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 the legislative council. The director of the legislative council shall analyze and refer the material under consideration to the germane joint subcommittee created in section 67-454, Idaho Code.

(2) If the germane joint subcommittee notifies the agency 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, that the subcommittee intends to hold a hearing on the proposed rulemaking within fourteen (14) days, the agency shall extend the comment period for such additional time as required to receive comments from the subcommittee. The notification from the germane joint subcommittee to the agency shall be sent to the agency and shall also be published in the bulletin.

(3) An agency shall prepare and deliver to the germane joint subcommittee a statement of economic impact with respect to a proposed rule if, within fourteen (14) days of the receipt of the proposed rule, 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. The adequacy of the contents of the statement of economic impact is not subject to judicial review. [I.C., § 67-5223, as added by 1992, ch. 263, § 13, p. 783; am. 1994, ch. 271, § 3, p. 834.]

Compiler's notes. Section 2 of S.L. 1994, ch. 271 is compiled as § 67-5221.

Sec. to sec. ref. This section is referred to in §§ 33-105 and 67-5226.

Opinions of Attorney General. A nutrient management plan developed by the Idaho Department of Health and Welfare pursuant to § 39-105 is subject to legislative review pursuant to this section and § 67-5291 and further, the limitation on authority granted to the department and the broad authority granted the board supports the conclusion that the plan is subject to review by the board. OAG 94-2.

67-5224. Final rule. — (1) Prior to the adoption, amendment, or repeal 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 the final rule in the bulletin. In addition, the agency shall publish a concise explanatory statement containing:

(a) reasons for adopting the final rule; and

(b) a statement of any change between the text of the proposed rule and the text of the final rule with an explanation of the reasons for any changes.

(3) With the permission of the coordinator, the agency need not publish in full the text of the final 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 final 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 final rule until at least seven (7) days after the close of all public comment.

(5) When the legislature approves, amends or modifies a rule pursuant to section 67-5291, Idaho Code, such rule shall become final upon adoption of the concurrent resolution or such other date specified in the concurrent resolution. Otherwise, except as set forth in sections 67-5226 and 67-5228, Idaho Code, no rule adopted by an agency shall become final until the conclusion of a regular or special legislative session to which such rule has been submitted for review. Provided however, that except as set forth in sections 67-5226 and 67-5228, Idaho Code, no rule imposing a fee or charge of any kind shall become effective until it has been approved, amended or modified by concurrent resolution. [I.C., § 67-5224, as added by 1992, ch. 263, § 14, p. 783; am. 1995, ch. 196, § 1, p. 686.]

Compiler's notes. Section 2 of S.L. 1995, ch. 196 is compiled as § 67-5226.

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. [I.C., § 67-5225, as added by 1992, ch. 263, § 15, p. 783; am. 1995, ch. 270, § 1, p. 868.]

Compiler's notes. Section 2 of S.L. 1995, ch. 270 is compiled as § 67-5230.

Sec. to sec. ref. This section is referred to in § 67-5275.

67-5226. Temporary rules. — (1) If the governor finds that:

(a) it is reasonably necessary to protect 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 to the legislature for review the agency may proceed with such notice as is practicable and adopt a temporary rule. 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 rule adopted pursuant to subsection (1) of this section which imposes a fee or charge may become effective under this section before it has been approved, amended or modified by concurrent resolution only if the governor finds that the fee or charge is necessary to avoid immediate danger which justifies the imposition of such fee or charge.

(3) In no case shall a rule adopted pursuant to this section remain in effect beyond the conclusion of the next succeeding regular session of the legislature unless such rule is approved, amended or modified by concurrent resolution, in which case such rule may remain in effect until the time specified in the resolution or until such rule has been replaced by a permanent rule adopted in accordance with the rulemaking requirements of this chapter.

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

(5) Temporary rules are not subject to the requirements of section 67-5223, Idaho Code.

(6) 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 permanent rule in accordance with the rulemaking requirements of this chapter. [I.C., § 67-5226, as added by 1992, ch. 263, § 16, p. 783; am. 1995, ch. 196, § 2, p. 686.]

Compiler's notes. Sections 1 and 3 of S.L. 1995, ch. 196 are compiled as §§ 67-5224 and 67-5291, respectively.

67-5227. Variance between final rule and proposed rule. — An agency may adopt a final rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the final 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 in order for such members of the public to determine whether their interests could be affected by agency action on that subject. [I.C., § 67-5227, as added by 1992, ch. 263, § 17, p. 783; am. 1993, ch. 216, § 106, p. 587.]

Compiler's notes. Sections 105 and 107 of S.L. 1993, ch. 216 are compiled as §§ 67-5221 and 67-5241, respectively.

67-5228. Exemption from regular rulemaking procedures. — An agency may amend a final rule to correct typographical errors, transcription errors, or clerical errors when the amendments are approved by the coordinator. Such amendments become effective without compliance with regular rulemaking procedures upon publication in the bulletin. [I.C., § 67-5228, as added by 1992, ch. 263, § 18, p. 783.]

67-5229. Incorporation by reference. — (1) An agency may incorporate by reference in its rules and without republication of the incorporated material in full, all or any part of a code, standard or rule which has been adopted by an agency of the state or of the United States or by any nationally recognized organization or association, if the incorporation of its text in the agency rules would be unduly cumbersome, expensive, or otherwise inexpedient. The agency shall, as part of the rulemaking:

(a) note where copies of the incorporated material may be obtained; and

(b) if otherwise unavailable, provide one (1) copy of the incorporated material to the state law library and to the coordinator.

(2) If the agency subsequently wishes to incorporate amendments to previously incorporated material, it shall comply with the rulemaking procedures of this chapter. [I.C., § 67-5203A, as added by 1980, ch. 212, § 2, p. 481; am. and redesig. 1992, ch. 263, § 19, p. 783.]

Compiler's notes. Former § 67-5202 was amended and redesignated as § 67-5250 by § 35 of S.L. 1992, ch. 263, effective July 1, 1993.

Section 241 of S.L. 1994, ch. 180 provided that such act should become effective on and after the first Monday in January, 1995 [January 2, 1995] if the amendment to the Constitution of Idaho changing the name of the state auditor to state controller [1994 S.J.R. No. 109, p. 1493] was adopted at the general election held on November 8, 1994. Since such amendment was adopted, the amendment to this section by § 218 of S.L. 1994, ch. 180 became effective January 2, 1995.

Sections 217 and 219 of S.L. 1994, ch. 180 are compiled as §§ 67-4917C and 67-5303, respectively.

Section 241 of S.L. 1994, ch. 180 provided: "This act shall be in full force and effect on and after the first Monday of January, 1995, if the state board of canvassers has certified that an amendment to the Constitution of the State of Idaho has been adopted at the general election of 1994 to change the name of the state auditor to state controller."

67-5202A. Numbering and format of rules. [Repealed.]

Compiler's notes. This section, which comprised 1965, ch. 273, § 2, p. 701; am. 1980, ch. 204, § 1, p. 468, was repealed by S.L. 1992, ch. 263, § 5, effective July 1, 1993.

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 in the bulletin. The bulletin shall be published 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 proclamations and executive orders of the governor;

(b) agency notices of intent to promulgate rules, notices of proposed rules, and the text of all proposed and final 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 in the bulletin shall be the official text of that document until the document has been published in the administrative code. Judicial notice shall be taken of all documents published in the bulletin.

(6) The coordinator shall provide a process for access to the contents of the bulletin and to the administrative code by electronic means. [I.C., § 67-5203, as added by 1992, ch. 263, § 3, p. 783; am. 1993, ch. 216, § 102, p. 853; am. 1993, ch. 245, § 1, p. 587; am. 1994, ch. 371, § 1, p. 1194.]

Compiler's notes. Former § 67-5203 was amended and redesignated as § 67-5221 by § 10 of S.L. 1992, ch. 263, effective July 1, 1993.

Section 101 of S.L. 1993, ch. 216 is compiled as § 67-5201.

Section 2 of S.L. 1993, ch. 245 is compiled as § 67-5205.

Section 2 of S.L. 1994, ch. 371 is compiled as § 67-5205.

Cross ref. Notice by mail, § 60-109A.

Sec. to sec. ref. This section is referred to in §§ 33-105, 36-104, 36-105, 67-454, and 67-5206.

67-5203A. [Amended and Redesignated.]

Compiler's notes. Former § 67-5203A was amended and redesignated as § 67-5229 by § 19 of S.L. 1992, ch. 263, effective July 1, 1993.

67-5204. Publication of administrative code. — (1) The administrative rules coordinator shall annually publish a publication to be known as the "Idaho Administrative Code."

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

(a) all proclamations and 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 in the administrative code shall be the official text of that document. Judicial notice shall be taken of all documents published in the administrative code. [I.C., § 67-5204, as added by 1992, ch. 263, § 4, p. 783; am. 1993, ch. 216, § 103, p. 587.]

Compiler's notes. Former § 67-5204, which comprised 1965, ch. 273, § 4, p. 701; 1978, ch. 255, § 2, p. 556, was repealed by S.L. 1992, ch. 263, § 11, effective July 1, 1993.

Section 5 of S.L. 1992, ch. 263 contained a repeal.

Section 104 of S.L. 1993, ch. 216 is compiled as § 67-5206.

Sec. to sec. ref. This section is referred to in § 67-5206.

DECISIONS UNDER PRIOR LAW

Filing.

To satisfy the requirement that an agency ruling must be made available for public inspection in order to be given full force and effect, an agency must file in its central office a certified copy of each rule adopted by it as required by this section and must "publish" all effective rules adopted by it as required by I.C. § 67-5205. Williams v. State, 95 Idaho 5, 501 P.2d 203 (1972).

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 printed pamphlet 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 copies of and subscriptions to the administrative code, the permanent supplements thereto and the

bulletin, for reprints and bound volumes thereof and for pamphlet 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, and the number of copies which shall be distributed free for official use, in addition to those free copies required to be as provided in this section, 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. Free copies shall be distributed by the coordinator, as follows:

(a) One (1) to each county clerk for the use of the county law library.

(b) One (1) each to the senate and the house of representatives.

(c) One (1) to the attorney general.

(d) One (1) to the legislative council.

(e) One (1) each to the state universities and colleges, and one (1) to each community college.

(f) One (1) to the state law library.

(g) One (1) to the state library.

(h) One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Library and Twin Falls Public Library.

In addition to those free copies required to be distributed by this section, the coordinator may distribute free copies for official use.

(3) 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.

(4) There is hereby created in the state treasury the administrative code account. 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 account. All agencies which have any material published 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 publication and distribution of such material. All moneys placed in the account are perpetually 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.

The coordinator shall allocate costs of production, publication and distribution to each participating agency in the same proportion that the amount of the costs of production, publication and distribution for that agency bears to the total costs of production, publication and distribution for all agencies,

with the costs to be determined on a per page basis. A cost per page may be imposed even though less than a full page of publication is required.

The cost allocations to each participating agency shall be made monthly by the coordinator, and each participating agency shall promptly pay into the administrative code account such costs. [I.C., § 67-5205, as added by 1992, ch. 263, § 6, p. 783; am. 1993, ch. 245, § 2, p. 853; am. 1994, ch. 371, § 2, p. 1194.]

Compiler's notes. Former § 67-5205, which comprised 1965, ch. 273, § 5, p. 701; am. 1980, ch. 78, § 1, p. 160; am. 1981, ch. 251, § 1, p. 541; am. 1983, ch. 86, § 1, p. 181; am. 1985, ch. 221, § 1, p. 533; am. 1986, ch. 105, § 1, p. 292, was repealed by S.L. 1992, ch. 263, § 20, effective July 1, 1993.

Section 5 of S.L. 1992, ch. 263 contained a repeal.

Sections 1 and 3 of S.L. 1993, ch. 245 are compiled as §§ 67-5203 and 67-5221, respectively.

Sections 1 and 3 of S.L. 1994, ch. 371 are compiled as §§ 67-5203 and 67-5221, respectively.

Sec. to sec. ref. This section is referred to in § 67-5218.

DECISIONS UNDER PRIOR LAW

ANALYSIS

Instructions concerning administrative review.
Publication.

Instructions Concerning Administrative Review.

The public policy behind this statute should encourage administrative agencies to attach to all preliminary orders instructions concerning the available administrative review of those orders. Williams v. State, 95 Idaho 5, 501 P.2d 203 (1972).

Publication.

In satisfying its duty to publish its rules, an administrative agency must at least furnish state, district and county law libraries with complete sets of pertinent agency rules and regulations; if it fails to do so its rules and regulations are without force and effect. Williams v. State, 95 Idaho 5, 501 P.2d 203 (1972).

The rules and regulations of an agency must be properly published and made available for public inspection before the doctrine of exhaustion of administrative remedies becomes applicable; therefore trial court could not rule as a matter of law on motion to dismiss that appellants had not complied with agency regulations and exhausted its administrative remedy in view of factual issue regarding whether or not the agency's regulations had been published. Williams v. State, 95 Idaho 5, 501 P.2d 203 (1972).

To satisfy the requirement that an agency ruling must be made available for public inspection in order to be given full force and effect, an agency must file in its central office a certified copy of each rule adopted by it as required by former law and must "publish" all effective rules adopted by it as required by this section. Williams v. State, 95 Idaho 5, 501 P.2d 203 (1972).

67-5206. Promulgation of rules implementing administrative procedure act. — (1) In accordance with the rulemaking requirements of this chapter, the administrative rules coordinator shall promulgate rules implementing the provisions of sections 67-5203, 67-5204 and 67-5205, Idaho Code. The rules shall:

(a) establish a uniform numbering system applicable to rules adopted by all agencies;

(b) establish a uniform style and format applicable to rules adopted by all agencies;

(c) establish a publication schedule for the bulletin and the administrative code, including deadlines for the submission of documents to be included within each publication;

(d) establish a uniform indexing system for agency orders; and